

State of Wisconsin Supplier Diversity Annual Report

Fiscal Year 2017

Department of Administration
Division of Enterprise Operations
Wisconsin Supplier Diversity Program

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Executive Summary

History of the Wisconsin Supplier Diversity Program. The Wisconsin Supplier Diversity Program was created in 1983 when the Legislature passed Wisconsin Act 390 that set a five percent participation goal for state agencies and University of Wisconsin campuses for purchases of goods and services with certified Minority Business Enterprises (MBEs). The Act also established a *permissive* five percent bid preference for certified MBE firms responding to bids for State contracts.

In 2010, the Legislature enacted Wisconsin Act 299 that provided a participation goal of a portion of state contracts for Disabled-Veteran Owned Businesses (DVBs) certified by the State of Wisconsin. It also provided a *permissive* five percent bid preference to such firms. In 2014, the Legislature enacted an amendment under 2013 Wisconsin Act 192 to establish a one percent goal for DVBs.

Fiscal Year 2017 Highlights. Diverse suppliers accounted for \$119,093,431 of \$2,443,227,695 of state agency and University of Wisconsin spending in the areas of procurement, state highways, facilities construction and architectural/engineering services during FY17. Diverse supplier purchases represented 4.87% of total spend. FY17 highlights included:

- State agencies spent \$78,321,914 with MBE/DVB businesses on general procurement in FY17, or 8.86% of spend totaling \$884,398,087.
- The DOA Division of Facilities Development and Management (DFDM) spent \$229,638,536 on various state construction projects in FY17. MBEs accounted for \$18,225,792 of total expenditures and DVBs accounted for \$2,863,670 for a total of \$21,089,462, representing 9.18% of total spend.
- DFDM spent \$27,278,413 for architectural/engineering services in FY17. Certified MBE firms accounted for \$1,764,443 and DVBs accounted for \$117,172 for a total of \$1,881,615, or 6.90% of total spend.
- The Wisconsin Department of Transportation (DOT) State Highway Program expended \$12,945,294 with MBEs/DVBs, or 1.88% of the \$688,556,000 spent in FY17.
- University of Wisconsin System campuses spent \$4,855,145 in the procurement of goods and services with certified MBE/DVB firms in FY17, or 0.79% of spend totaling \$613,356,659.

Statutory Authority

Annual Reporting Requirement. §16.75 (3m)(c)4., Wis. Stats., requires the Department of Administration (DOA) to annually report enterprise-wide participation by MBEs and DVBs on state contracts to the Governor and Legislature for distribution to the appropriate legislative committees.

State of Wisconsin Diversity Business Goals. §16.75 (3m)(b)1., Wis. Stats., provides that the department and any state agency making purchases “shall attempt to ensure that 5% of the total amount expended under this subchapter in each fiscal year is paid to minority businesses.” Minority-owned businesses are certified by DOA under §16.287, Wis. Stats.

§16.75 (3m)(b)2., Wis. Stats., provides that the department and any state agency making purchases “shall attempt to ensure that at least 1% of the total amount expended under this subchapter in each fiscal year is paid to disabled veteran owned businesses.” Disabled veteran-owned businesses are certified by DOA under §16.283, Wis. Stats.

The department monitors these goals and undertakes the certification process through the Wisconsin Supplier Diversity Program in the Division of Enterprise Operations.

Exceptions. The five percent expenditure goals apply to all State purchases with the exception of expenditures under the Department of Transportation (DOT) Federal Surface Transportation Assistance Act and Department of Natural Resources Environmental Protection Agency (EPA) funds. In addition, the Supplier Diversity Program offers certification for women-owned businesses; however, statutes do not provide a goal or price preference for women-owned businesses participating in state purchasing.

Business Bid Preference. Under §16.75 (3m)(b)3., Wis. Stats., agencies “may purchase materials, supplies, equipment and contractual services from any minority business or disabled veteran owned business, or a business that is both a minority business and a disabled veteran-owned business, submitting a qualified responsible competitive bid that is no more than 5% higher than the apparent low bid or competitive proposal that is no more than 5% higher than the most advantageous proposal.” The statute further provides that agencies “shall maximize the use of minority businesses or disabled veteran-owned businesses which are incorporated under Chap. 180 or which have their principal place of business in this state.” The *permissive* 5% low-bid preferences are applicable to all state purchases except printing and stationery.

Certification Program. The Department of Administration certifies minority- and disabled veteran-owned businesses through processes governed by §16.287 (2), Wis. Stats., and Administrative Code Chapters Adm 84 and Adm 82. An application is submitted by the business and a review is conducted by Wisconsin Supplier Diversity Program to ensure compliance with state statutes and administrative code. In 2017, 640 firms were certified MBEs (including some domiciled outside of the State of Wisconsin) and thirty-four firms were certified DVBs.¹

In 2012, Executive Order #72 required the Department to waive certification application requirements from other state, federal or local agencies or private businesses if their certification procedures are “substantially equivalent” to those of the State of Wisconsin. To streamline certification and reduce duplication, DOA entered into a Memorandum of Understanding (MOU) with the Wisconsin Department of Transportation Office of Business Opportunity and Equity Compliance and other entities in the Unified Certification Program (UCP) in 2013. Through it, the DOA Supplier Diversity Program grants certification to firms that meet State of Wisconsin certification eligibility requirements using their UCP certification.

¹ Department of Administration Certification website, February 8, 2018.

FY17 Results by Major Contracting Area

Four major areas of state purchasing account for the State’s supplier diversity goals. The areas, responsible agencies and relevant statutes are:

- **General Procurement.** All agencies and University of Wisconsin System campuses, §16.75 (3m), Wis. Stats.
- **Engineering and Architectural Services.** DOA DFDM, §16.87 (2), Wis. Stats.
- **Building Construction Services.** DOA DFDM, §16.855 (10m), Wis. Stats.
- **State Highways Construction.** Wisconsin DOT, §84.075, Wis. Stats.

The following summarizes spend by major state contracting areas during FY17:

Program	Total Spend	Diversity Spend	%
General Purchasing (Agencies and UW)	\$1,497,754,746	\$83,177,060	5.55%
DOA DFDM Construction	229,638,536	21,089,462	9.18%
DOA DFDM Architecture/Engineering	27,278,413	1,881,615	6.90%
DOT State Highway Program	<u>688,556,000</u>	<u>12,945,294</u>	<u>1.88%</u>
Total	\$2,443,227,695	\$119,093,431	4.87%

General Procurement. State statutes and administrative code govern purchasing activities conducted by agencies and campuses. The DOA State Bureau of Procurement (SBOP) oversees administration of all state procurement and sets policies and procedures to carry out procurement activities. In general, state laws and policies require competitive bidding as the preferred procurement method of contracting. Contracts are awarded to the lowest responsible bidder.

MBEs and DVBs compete for state contracts on the same basis as all other vendors. However, state agencies may make awards to an MBE or DVB “submitting the lowest qualified responsible competitive bid when the bid is not more than 5% higher than the apparent low bid or competitive proposal that is no more than 5% higher than the most advantageous proposal.”²

State agencies and campuses purchased general goods and services totaling \$1,497,754,746 in FY17. Of this amount, spend with diverse businesses totaled \$83,177,060 or 5.55% of all general purchases.³

Fifteen agencies achieved or exceeded five percent general spending with certified diverse suppliers in FY17:

1. Department of Workforce Development	28.20%
2. State of Wisconsin Investment Board	26.37%
3. Legislative Technology Services Bureau	26.19%
4. Department of Corrections	20.28%
5. Department of Transportation	11.99%

² §16.75(3m) (b) (3), Wis. Stats.

³ FY17 general purchasing figures include spend through the State’s purchasing card program.

6. Elections Commission	11.61%
7. Department of Children and Families	10.59%
8. Office of the Commissioner of Insurance	10.18%
9. Board for People with Developmental Disabilities	10.13%
10. Department of Employee Trust Funds	10.02%
11. Department of Justice	8.82%
12. Department of Safety and Professional Services	8.53%
13. Supreme Court	7.07%
14. Department of Financial Institutions	7.02%
15. Department of Health Services	5.10%

General procurement activity includes both direct purchases from MBEs/DVBs and second-tier MBE/DVB participation on contracts awarded to non-MBE vendors.

State Building Program: Construction Projects and Architectural/Engineering Service. DOA DFDM provides oversight of the State Building Program. Its services consist of new construction and building renovation for all agencies, including the University of Wisconsin System. In addition to construction-related services, it serves as staff to the State Building Commission. It is through these major activities that DFDM provides opportunities to minority businesses to participate in state contracts for construction, engineering and architectural services.

DFDM has an integrated and proactive approach in its business practices to ensure there are many opportunities for diverse suppliers. DFDM may also award to an MBE/DVB submitting the lowest qualified bid on contracts when that qualified bid is not more than 5% higher than the apparent low bid, a statutory price preference.

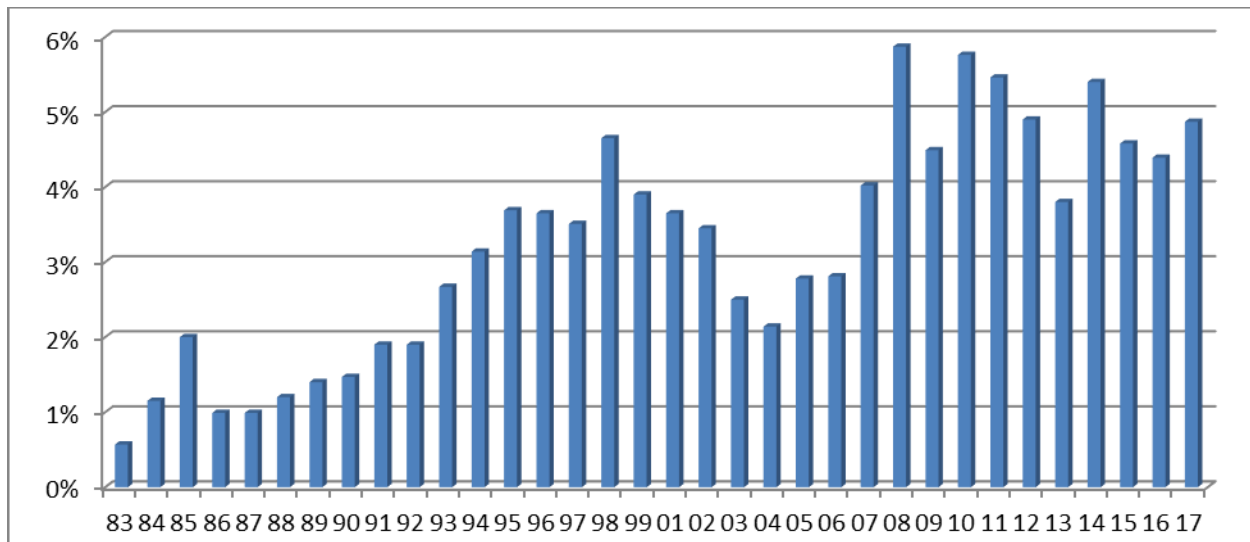
Twenty-six diverse firms (24 MBE, 2 DVB) firms were involved in construction projects undertaken by DFDM. FY17 construction expenditures totaled \$229,638,536 including MBE/DVB spend of \$21,089,462 for a participation rate of 9.18%.

Ten diverse firms (9 MBE, 1 DVB) provided consulting services to various architectural and engineering projects. Their participation was \$1,881,615, or 6.90%, on \$27,278,413 expended in FY17.

DOT Spend: State Trunk Highways, Roads and Bridge Building. Wisconsin DOT spent \$688,556,000 in FY17 on road and bridge building in the State Highway Construction Program. Diverse firm (mainly MBEs) participation totaled \$12,945,294 or 1.88% of FY17 spending.

Historical Trends

The following graph shows percentages of diversity spending from the inception of the State Diversity Program in 1983 to 2017. The figures are primarily dollars spent with MBEs; spend with DVBs commenced in 2010.



The following table provides the percentages of diverse spend in each major purchasing area over the last ten years.

Fiscal Year	General Procurement	Construction	Architecture Engineering	State Trunk Highway	Total
2008	2.91%	19.07%	8.89%	6.34%	5.87%
2009	3.45%	5.27%	9.74%	5.84%	4.49%
2010	3.77%	8.31%	17.26%	7.73%	5.76%
2011	3.99%	4.26%	15.96%	7.13%	5.15%
2012	3.06%	5.05%	10.90%	9.82%	4.90%
2013	3.20%	7.40%	16.40%	11.70%	3.60%
2014	4.30%	6.00%	7.60%	7.01%	5.40%
2015	4.16%	4.97%	4.61%	5.18%	4.58%
2016	4.60%	6.30%	5.65%	3.58%	4.39%
2017	5.55%	9.18%	6.90%	1.88%	4.87%

Other Statutory Diversity Spend

State of Wisconsin Investment Board. Statutes require the State of Wisconsin Investment Board (SWIB) to report on diversity spend relating to financial and investment analysis and for common stock and convertible bond brokerage commissions. In FY17, SWIB expended \$465,086, or 5.8%, of its discretionary commissions of \$8,008,603 with diverse brokerage firms.

DOA Capital Finance. DOA’s Capital Finance Office supports the financing needs of the State’s infrastructure through the sale of bonds and notes in the capital market. The State Building Commission sets a goal of ensuring that minority/disabled veteran-owned investment firms certified by the state underwrite 6% of the bonds. Diverse firms are encouraged to participate in the selling, advising and underwriting of State of Wisconsin bonds, notes, and other obligations in the capital market. In FY17, diverse firms underwrote 11.64% of Capital Finance’s sales of State of Wisconsin’s Building Commission bonds and notes and 27.23% of obligations issued by DOA. Overall, diverse underwriters’ participation totaled \$638,219,500 of obligations totaling \$3,430,545,000, or 18.60%. As of June 30, 2017, DOA had

not certified any disabled veteran-owned investment firms. The Building Commission, through the Capital Finance Office, utilized two nationally recognized disabled veteran-owned firms in FY17.

Wisconsin Health and Educational Facilities Authority. The Wisconsin Health and Educational Facilities Authority (WHEFA) is an independent state authority that provides active capital financing assistance to Wisconsin's tax-exempt healthcare and higher educational industries. In FY17, WHEFA provided contracts totaling \$1,670, or 1.56%, of its discretionary purchases with diverse firms.

Wisconsin Housing and Economic Development Authority. The Wisconsin Housing and Economic Development Authority (WHEDA) is an independent state authority that works with lenders to provide low-cost financing for housing and small business development in Wisconsin. In FY17, WHEDA spent \$317,627, or 6.31%, of its total \$5,031,837 discretionary purchases with diverse firms. WHEDA's FY17 expenditures for bonded activity totaled \$1,653,400, of which 2.69% was paid for services rendered by certified MBE firms.

FY17 State of Wisconsin Diversity Spend

Agency General Procurement	Total Spend	Diversity Spend	% Diversity
Administration, Department of	\$97,172,084	\$4,014,307	4.13%
Aging and Long-Term Care, Board on	\$93,847	\$1,164	1.24%
Agriculture, Trade and Consumer Protection, Department of	\$6,478,614	\$251,165	3.88%
Child Abuse and Neglect Prevention Board	\$105,985	-	-
Children and Families, Department of	\$43,927,743	\$4,651,501	10.59%
Circuit Courts	\$1,488,181	-	-
Corrections, Department of	\$176,551,746	\$35,810,416	20.28%
Court of Appeals	\$618,062	\$578	0.09%
Educational Communications Board	\$3,280,690	\$1,304	0.04%
Elections Commission	\$1,118,756	\$129,861	11.61%
Employee Trust Funds, Department of	\$17,635,341	\$1,767,343	10.02%
Employment Relations Commission	\$144,905	\$2,511	1.73%
Ethics Commission	\$226,949	-	-
Financial Institutions, Department of	\$3,197,037	\$224,281	7.02%
Governor, Office of the	\$221,277	-	-
Health Services, Department of	\$224,756,391	\$11,454,668	5.10%
Higher Educational Aids Board	\$84,993	\$1,154	1.36%
Historical Society	\$3,547,667	\$4,560	0.13%
Insurance, Commissioner of	\$3,060,943	\$311,738	10.18%
Investment Board	\$2,517,046	\$663,654	26.37%
Judicial Commission	\$8,003	-	-
Judicial Council	\$4,772	-	-
Justice, Department of	\$20,450,223	\$1,804,236	8.82%
Kickapoo Reserve Management Board	\$138,194	-	-
Labor and Industry Review Commission	\$50,815	-	-
Legislative Technology Services Bureau	\$1,947,315	\$510,042	26.19%
Lieutenant Governor, Office of the	\$5,197	-	-
Lower Wisconsin State Riverway Board	\$6,722	-	-
Military Affairs, Department of	\$10,412,212	\$256,908	2.47%
Natural Resources, Department of	\$52,838,028	\$344,627	0.65%
People with Developmental Disabilities, Board for	\$150,627	\$15,253	10.13%
Public Defender Board	\$4,092,855	\$14,320	0.35%
Public Instruction, Department of	\$36,196,078	\$880,408	2.43%
Public Lands, Board of Commissioners of	\$128,886	-	-
Public Service Commission	\$1,020,143	\$1,207	0.12%
Revenue, Department of	\$36,843,226	\$1,011,835	2.75%
Safety and Professional Services, Department of	\$1,970,495	\$168,091	8.53%
Secretary of State	\$7,582	-	-
State Fair Park Board	\$9,650,977	\$205,383	2.13%
State Treasurer	\$287	-	-
Supreme Court	\$5,863,556	\$414,813	7.07%
Tourism, Department of	\$12,306,351	\$539,714	4.39%
Transportation, Department of	\$61,610,502	\$7,386,311	11.99%
Veterans Affairs, Department of	\$22,583,571	\$56,663	0.25%
Wisconsin Technical College System Board	\$673,799	\$4,147	0.62%
Workforce Development, Department of	\$19,209,411	\$5,417,751	28.20%
Agency Total	\$884,398,087	\$78,321,914	8.86%
UW System	\$613,356,659	\$4,855,145	0.79%
Total General Procurement	\$1,497,754,746	\$83,177,060	5.55%
DOA DFDM Architectural Engineering Services	\$27,278,413	\$1,881,615	6.90%
DOA DFDM Building Construction	\$229,638,536	\$21,089,462	9.18%
DOT State Highway Program	\$688,556,000	\$12,945,294	1.88%
Grand Total	\$2,443,227,695	\$119,093,431	4.87%