

State of Wisconsin Minority Business Report

Fiscal Year 2008 Annual Report

Minority Business Enterprise Program
Department of Administration

April 2009



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

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April 27, 2009

Honorable Jim Doyle
Governor, State of Wisconsin
115 East, State Capitol
Madison, Wisconsin 53702

Dear Governor Doyle:

I am proud to provide this report to you documenting that for the first time in the 25-year history of the Minority Business Enterprise (MBE) program, we surpassed the five percent goal. In fiscal year 2008, state government spent close to \$95 million, or 5.87 percent, with MBE firms for products, services, facilities and highways. This is the largest amount spent with minority businesses in the program's history, as well.

Over the past four years we continually made progress in improving the participation of certified minority-owned firms in providing services and products for state government. Through your leadership on this issue, we have finally reached a significant milestone in the program.

State agencies will work to build on our success. We will continue to push for better and more effective ways to open access to minority-owned businesses who are interested in doing business with the state, including our work with your Business Opportunity Advisory Commission to improve the program.

We will continue to focus on providing opportunities for minority-owned businesses to compete for state contracts and to help minority entrepreneurs grow and succeed.

Sincerely,

Michael L. Morgan
Secretary of Administration

cc: Robert J. Marchant, Senate Chief Clerk
Patrick E. Fuller, Assembly Chief Clerk

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Table of Contents

	Page
Executive Summary	1
Statutory Background	2
Overall Minority Business Enterprise Purchasing Activity	2
General Procurement Activity	4
State Building Program: Construction Projects and Architectural/Engineering Services	6
State Trunk Highways: Road and Bridge Building	6
State of Wisconsin Investment Board	6
Other Minority Business Purchasing Activity	7
Attachment 1: FY2008 State of Wisconsin Minority Business Spend, By Agency and Purchasing Area	8

For More Information

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Executive Summary

Enacted in 1983, Wisconsin's Minority Business Enterprise (MBE) law sets a five percent MBE procurement goal for state agencies and offers a five percent price preference for certified minority firms that compete for State contracts.

- In Fiscal 2008, the State of Wisconsin achieved a 5.87 percent MBE participation rate; the State exceeded the five percent goal for the first time in program history.
- The State spent \$94,624,729 with MBE firms through general purchasing, construction, architectural/engineering and State trunk highway programs.
- The FY08 MBE percentage and spending level were the highest in program history.
- State agency spend with MBEs (excluding the University of Wisconsin) through general procurement, construction, architectural/engineering and State trunk highway programs increased by 57 percent from \$55,322,681 in FY07 to \$86,887,807 in FY08. The overall state agency MBE percentage rose from 4.86 percent in FY07 to 7.41 percent in FY08.
- Division of State Facilities (DSF) construction activity with MBEs grew by 79 percent from \$22,661,739 in FY07 to \$40,552,674 in FY08.
- DSF architectural/engineering spend with MBEs increased by 188 percent from \$1,898,047 in FY07 to \$5,470,550 in FY08.
- Department of Transportation (DOT) State trunk highway contracting with MBEs increased by 75 percent from \$10,246,564 in FY07 to \$17,933,832 in FY08.
- State agency general procurement activity with MBEs grew by twelve percent from \$20,516,331 in FY07 to \$22,930,751 in FY08.
- Fourteen agencies met or exceeded the five percent MBE goal, led by the State of Wisconsin Investment Board (35 percent) and Department of Financial Institutions (34 percent).

Statutory Background

Statutes require agencies to attempt to achieve five percent of spending with certified MBEs.

Statutes empower, but do not require, agencies to provide a five percent price preference to MBEs.

The Department of Commerce listed 1,274 certified MBEs on March 2, 2009.

Five Percent Minority Business Purchasing Goal. §16.75 (3m)(b), Wis. Stats., provides that executive, legislative and judicial agencies of state government "shall attempt to ensure that 5% of the total amount expended under this subchapter in each fiscal year is paid to minority businesses." Statutes define the term "minority business" as a "business certified by the Department of Commerce under s. 560.036 (2)." The Department of Administration (DOA) monitors this goal through the office of the State Minority Business Enterprise (MBE) Program.

The five percent expenditure goal applies to all State purchases with the exception of Department of Transportation (DOT) Federal Surface Transportation Assistance Act and Department of Natural Resources Environmental Protection Agency (EPA) funds.

Five Percent Minority Business Price Preference. §16.75 (3m)(b), Wis. Stats., provides that agencies "may purchase materials, supplies, equipment and contractual services from any minority 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 offer." The statute further provides that agencies "shall maximize the use of minority businesses which are incorporated under ch. 180 or which have their principal place of business in this state." The permissive five percent low-bid preference is applicable to all State purchases except printing and stationery.

MBE Certification. The Department of Commerce certifies minority businesses through a process governed by §560.036 (2), Wis. Stats., and Comm 105. The process includes an application submitted by the minority business and a review conducted by the Department of Commerce Bureau of Minority Business Development to ensure compliance with the statute and administrative code. Of an estimated 18,000 Wisconsin minority-owned businesses¹, 992 were certified MBEs (plus 282 domiciled outside of Wisconsin).²

Annual Reporting. §16.75 (3m)(c)4., Wis. Stats., requires that DOA annually report enterprise-wide MBE activity to the Governor and Legislature.

Overall Minority Business Enterprise Purchasing Activity

Agencies and campuses conduct direct purchasing under the authority of several statutes governing both general and specialized procurements. The following four purchasing areas together constitute the basis of direct MBE purchasing activities under §16.75 (3m)(c)4., Wis. Stats., including the overall percentage that measures annual MBE performance:

- General procurement, all agencies and University of Wisconsin (UW), under §16.75, Wis. Stats.³
- Construction projects, DOA Division of State Facilities (DSF), under §16.855, Wis. Stats.
- Engineering or architectural services, DOA DSF, under §16.87 (2), Wis. Stats.
- State highways, DOT, under §84.075, Wis. Stats.

¹ Source: 2002 Survey of Business Owners, U.S. Department of Commerce, Census Bureau

² Source: Wisconsin Department of Commerce, March 2, 2009

³ Includes State Lottery (§565.25 (2) (a) 3.) data with Department of Revenue general procurement spend)

In FY08, the four procurement areas combined to produce \$94,624,729 of purchases from certified MBEs, or 5.87 percent of purchases totaling \$1,612,648,896, as follows:

FY2008 State of Wisconsin Purchasing from Certified MBEs
By Procurement Area

Purpose or Program	Total Spend	MBE Spend	% MBE
General Purchasing (Agencies and UW)	\$1,055,497,397	\$30,667,673	2.91%
DOA DSF Construction	212,692,169	40,552,674	19.07%
DOA DSF Architecture/Engineering	61,507,918	5,470,550	8.89%
DOT State Highway Program	<u>282,951,412</u>	<u>17,933,832</u>	6.34%
Total	\$1,612,648,896	\$94,624,729	5.87%

The State's overall MBE percentage was 5.87 percent in Fiscal Year 2008, up from 4.02 percent in Fiscal Year 2007.

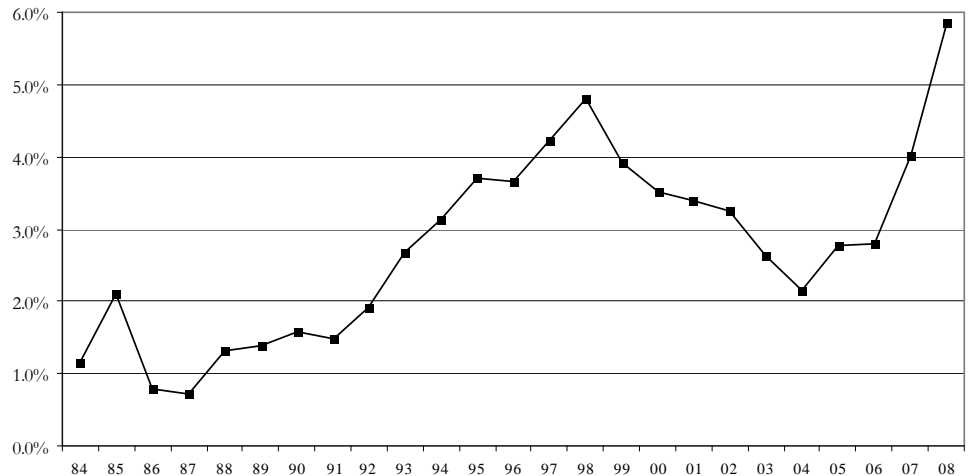
Fiscal Year 2008 MBE spending was 52.3 percent higher than Fiscal Year 2007.

The Fiscal Year 2008 MBE percentage and dollar spend were the highest in program history.

Since 2004, the State of Wisconsin has made steady progress toward meeting the five percent minority business purchasing goal set forth in §16.75 (3m)(b), Wis. Stats. In FY08, MBE spending across the four procurement areas rose by \$32,504,565, or 52.33 percent, compared to FY07 results. Additionally, FY08 performance compares well in the context of program history:

- \$94,624,729 spent with MBEs in FY08 represents the highest dollar level of MBE purchasing since program inception.
- The FY08 MBE participation rate of 5.87 percent was the highest percentage level in program history.

State of Wisconsin Overall MBE Percentage, by Fiscal Year



Consistent with overall progress toward the five percent goal, individual purchasing areas have also trended higher in recent years. The following table and graph demonstrate recent progress toward the MBE purchasing goal, expressed as both percentages of overall spending and dollars spent with MBEs:

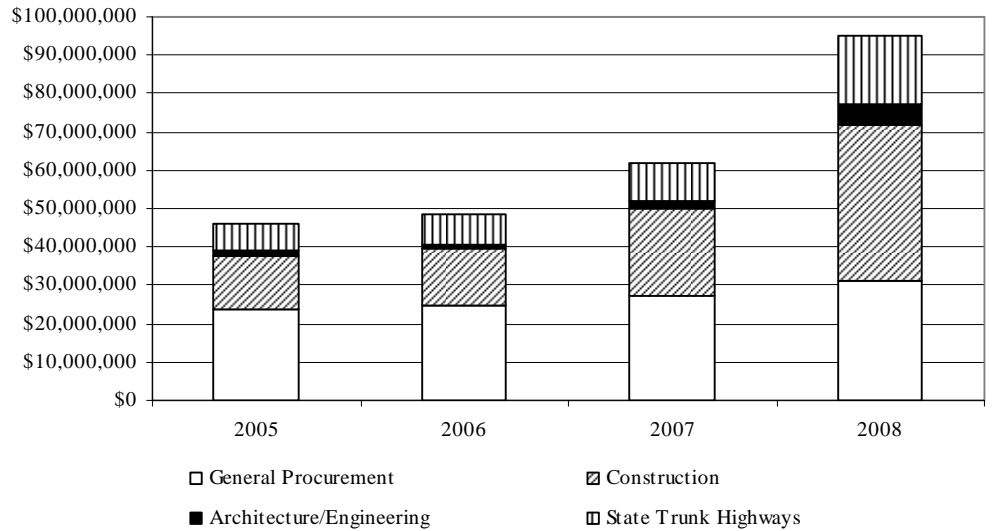
State of Wisconsin MBE Activity

Percent of spending, by fiscal year and purchasing area

Fiscal Year	General Procurement	Construction	Architecture/Engineering	State Trunk Highways	Total
2005	2.21%	4.24%	7.04%	3.06%	2.78%
2006	2.39%	7.16%	5.19%	1.66%	2.81%
2007	2.68%	7.76%	5.81%	5.07%	4.02%
2008	2.91%	19.07%	8.89%	6.34%	5.87%

State of Wisconsin MBE Activity

Dollars spent, by fiscal year and purchasing area



A detailed summary of FY08 MBE spend by purchasing area and agency is provided in Attachment 1.

General Procurement Activity

State statutes and administrative code govern purchasing activities conducted by agencies and campuses. The DOA State Bureau of Procurement (SBOP) oversees administration of the State Procurement Manual that sets policies and procedures to carry out procurement laws. In general, state laws and policies establish competitive bidding as the preferred procurement method, require that awards be made to the low-cost responsible bidder, and permit the delegation of some purchases to state agencies and institutions.

MBEs compete for state contracts on the same basis as all other vendors. However, state agencies may make awards to an MBE submitting the lowest qualified bid when that qualified bid is not more than five percent higher than the apparent low bid or the proposal is no more than five percent lower than the apparent high point score.

Certified MBEs compete for state contracts on the same basis as other businesses, but may be awarded a five percent price preference.

State agencies and campuses purchased general goods and services totaling \$1.055 billion in FY08⁴. MBE purchasing totaled \$30.7 million, or 2.91 percent, of all general purchases. FY08 general procurement MBE activity included the following highlights:

- The general procurement MBE percentage rose from 2.68 percent in FY07 to 2.91 percent in FY08.
- Total dollar volume of general MBE purchasing increased by \$3,353,859, or 12.28 percent, from \$27,313,814 in FY07 to \$30,667,673 in FY08.
- State agencies reported an 11.77 percent increase in MBE spending from \$20,516,331 in FY07 to \$22,930,751 in FY08. UW campuses experienced a 13.82 percent increase in MBE spending from \$6,797,483 in FY07 to \$7,736,922 in FY08.
- The state agency MBE percentage rose from 3.36 percent in FY07 to 3.73 percent in FY08. The UW MBE percentage increased from 1.66% in FY07 to 1.76% in FY08.
- Fourteen agencies achieved at least five percent of general spending through certified MBEs in FY08:

1. Investment Board, State of Wisconsin	35.28%
2. Financial Institutions, Department of	33.53%
3. Lieutenant Governor, Office of the	18.74%
4. Government Accountability Board	13.18%
5. Tourism, Department of	11.01%
6. Public Service Commission	9.38%
7. Workforce Development, Department of	8.60%
8. Commerce, Department of	8.53%
9. Governor, Office of the	6.76%
10. Supreme Court	6.71%
11. Insurance Commissioner, Office of the	6.51%
12. Aging, Board on	6.40%
13. Administration, Department of	5.76%
14. Transportation, Department of	5.48%

- Purchasing card spend totaling \$159 million contained approximately \$1 million of activity with certified MBEs.⁵
- General procurement activity includes both direct purchasing from MBEs and second-tier MBE participation on contracts awarded to non-MBE vendors.

⁴ Sources: WISMART and University of Wisconsin System Administration data. The figure includes both general (e.g., office supplies) and specialized (e.g., research equipment) purchases. However, it excludes spending authorized outside of \$16.75 such as interagency or municipal spend, fellowships and scholarships, services provided in conjunction with building or road construction projects, Chapter 36 research or instructional services, utilities and grant-related expenditures.

⁵ Source: US Bank. Purchasing card data is reported separately in this and past reports because of potential double counting of both overall and MBE spend in addition to that reported through WISMART.

Fiscal Year 2008 agency and campus general purchasing with MBEs was twelve percent higher than Fiscal Year 2006.

Fourteen agencies met or exceeded the five percent MBE goal in Fiscal Year 2008.

State Building Program: Construction Projects and Architectural/Engineering Services

The Division of State Facilities (DSF) in DOA provides oversight of the State Building Program. Its services comprise new construction and 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 DSF provides opportunities to minority businesses to participate in State spending in construction, engineering and architectural services.

DSF has an integrated and proactive approach in its business practices to ensure that there are ample opportunities for MBEs. These include having a point person for advocating for MBEs and a membership in the Selection Committee for engineering and architectural services. DSF may award to an MBE submitting the lowest qualified bid when that qualified bid is not more than five percent higher than the apparent low bid (statutory price preference) and the MBE's bid is within a project's budget.

In FY08, MBEs were involved in 87 construction projects undertaken by DSF totaling \$212,692,169. MBE participation on those contracts totaled \$40,552,674, a 19.07 percent MBE participation rate in FY08.

Seventy-nine minority firms provided services in various architectural and engineering contracts to the State, earning \$5,470,550 in service fees in FY08. This figure represents an 8.89 percent participation rate on \$61,507,918 expended for architectural and engineering services contracts for the fiscal year. This achievement in architectural and engineering spend marks the twenty-first year in a row that DSF has met or exceeded the minimum statutory five percent MBE goal.

State Trunk Highways: Road and Bridge Building

The Department of Transportation (DOT) expended \$282,951,412 in FY08 for road and bridge building in the State Highway Construction Program. MBE participation in the State Highway Construction Program totaled \$17,933,832, or 6.34 percent.

In an effort to increase minority business participation in the State Highway Construction Program, DOT continued to expand the base of firms certified in the construction highway industry by ensuring that all were certified with the Department of Commerce. In FY08, 664 firms were certified in the Disadvantaged Business Enterprise program.

DOT's Minority Business Guarantee Loan Program continues to offer minority firms enhanced opportunities to participate in the road-building program by making working capital available to them while performing on state projects. During FY08, the program made two loans totaling \$268,990 and one extension in the amount of \$155,700.

State of Wisconsin Investment Board

In addition to direct purchasing through the programs previously described, §16.75 (3m)(c)4., Wis. Stats., requires that DOA report on funds expended by the State of Wisconsin Investment Board (SWIB) for financial and investment analysis and for common stock and convertible bond brokerage commissions. SWIB is required by §25.185, Wis. Stats., to ensure that five percent of its funds expended for financial and investment analysis are with minority-owned firms. In FY08, SWIB expended 2.02

MBEs participated on State construction projects at a rate of 19 percent in Fiscal Year 2008.

MBEs participated in architectural/ engineering contracts at nine percent in Fiscal Year 2008.

State architectural/ engineering spending with MBEs has exceeded the five percent goal for 21 consecutive years.

State highway projects had a six percent MBE participation rate in Fiscal Year 2008.

SWIB expended two percent of bond and stock commissions with MBEs in Fiscal Year 2008.

percent of its bond and stock commission for its financial and investment services with minority-owned firms. This represented payments of \$156,997 on total discretionary commissions of \$7,766,093.

Other Minority Business Purchasing Activity

MBE spending by certain state government programs and quasi-governmental agencies fall outside of the reporting requirements of §16.75 (3m)(c)4., Wis. Stats. Nonetheless, such programs frequently contract with minority-owned businesses to provide goods and services.

DOA Capital Finance. DOA's Capital Finance Office supports the State's infrastructural financing needs through the sale of bonds and notes in the capital market. The State Building Commission by law set a goal of ensuring minority business participation in such activities. In addition, DOA's Capital Finance Office is responsible for the issuance by DOA of annual appropriation obligations as authorized by the Wisconsin Legislature. Minority-owned firms have been encouraged to participate in the selling, advising and underwriting of State of Wisconsin bonds, notes, and other obligations in the capital market.

In FY08, MBE firms provided initial underwriting on 4.83 percent, or \$48,670,900, of all State Building Commission bonding. MBE initial underwriting on general fund annual appropriation obligations issued by the State, acting by and through the Department of Administration, totaled \$128,007,704, or 12.71 percent, of such issuance. Overall, minority-owned underwriters participated on \$176,678,604, or 8.31 percent, of various obligations totaling \$2,125,650,000.

The DOA Capital Finance Office had MBE participation of eight percent in FY08.

DOT Federal Highway Program. Federal highway projects undertaken by DOT feature expanded eligibility for small, disadvantaged businesses. The Disadvantaged Business Enterprise (DBE) Program seeks to increase participation of small companies owned by disadvantaged individuals including minorities, women and others as allowed under the Surface Transportation Assistance Acts of 1982 and 1987. The federal government sets DBE participation standards that are administered by DOT. In FY08, the DOT Federal Highway Program provided contracts on Wisconsin projects to DBEs totaling \$32,087,957, a participation rate of seven percent.

Federal highway projects had a seven percent participation rate with Disadvantaged Businesses in Fiscal Year 2008.

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 FY08, WHEFA provided contracts totaling \$2,970, or 3.20 percent, to MBE firms.

WHEFA contracted with MBEs at a rate of three percent in Fiscal Year 2008.

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 FY08, WHEDA provided contracts totaling \$265,819, or 16.03 percent, to MBE firms.

WHEDA's MBE participation rate was 16 percent in Fiscal Year 2008.

FY2008 State of Wisconsin Minority Business Spend, by Agency and Purchasing Area

State Agencies (excluding the University of Wisconsin)

General Purchasing under §16.75, Wis. Stats.	Total Spend	MBE Spend	MBE %
Administration, Department of ¹	\$73,261,776	\$4,219,403	5.76%
Aging, Board on	25,825	1,652	6.40%
Agriculture, Trade and Consumer Protection, Department of	4,867,557	157,677	3.24%
Arts Board	744,185	0	0.00%
Child Abuse and Neglect Prevention Board	151,037	0	0.00%
Circuit Courts	519,457	0	0.00%
Commerce, Department of	2,179,701	185,973	8.53%
Corrections, Department of	135,264,607	2,578,677	1.91%
Court of Appeals	406,420	0	0.00%
District Attorneys (DOA)	351,313	0	0.00%
Educational Communications Board	3,452,874	3,172	0.09%
Employee Trust Funds	4,299,723	193,987	4.51%
Employment Relations Commission	63,974	0	0.00%
Employment Relations, Office of State	169,736	0	0.00%
Financial Institutions, Department of	2,149,108	720,531	33.53%
Fox River Navigational System Authority	126,700	0	0.00%
Government Accountability Board	412,384	54,363	13.18%
Governor, Office of the	132,347	8,943	6.76%
Health and Family Services, Department of	144,971,116	4,727,277	3.26%
Higher Educational Aids Board	75,900	0	0.00%
Historical Society	1,825,458	0	0.00%
Insurance Commissioner, Office of the	3,494,098	227,426	6.51%
Investment Board, State of Wisconsin	563,872	198,907	35.28%
Judicial Commission	1,337	0	0.00%
Judicial Council	32,996	0	0.00%
Justice, Department of	8,918,048	133,449	1.50%
Legislature	3,704,326	10,477	0.28%
Lieutenant Governor, Office of the	10,850	2,034	18.74%
Lower Wisconsin Riverway Board	5,402	0	0.00%
Military Affairs, Department of	5,680,802	270,072	4.75%
Miscellaneous Appropriations	864,687	0	0.00%
Natural Resources, Department of	39,486,198	831,025	2.10%
People with Developmental Disabilities, Board for	28,248	0	0.00%
Public Defender	2,546,019	13,145	0.52%
Public Instruction, Department of	28,673,347	57,632	0.20%
Public Lands, Board of Commissioners of	105,602	0	0.00%
Public Service Commission	726,792	68,179	9.38%
Regulation & Licensing, Department of	672,988	24,145	3.59%
Revenue, Department of	31,278,639	1,177,811	3.77%
Secretary of State, Office of the	23,745	0	0.00%
State Fair Park	3,906,329	33,484	0.86%
Supreme Court	6,109,864	410,043	6.71%
Technical College System Board	335,857	0	0.00%
Tourism, Department of	9,204,511	1,013,348	11.01%
Transportation, Department of	55,684,452	3,050,895	5.48%
Treasurer, Office of the State	1,919,819	0	0.00%
Veterans Affairs, Department of	9,804,589	353,434	3.60%
Workforce Development, Department of	<u>25,615,020</u>	<u>2,203,592</u>	8.60%
General Purchasing Total	\$614,849,635	\$22,930,751	3.73%
DOA Construction	\$212,692,169	\$40,552,674	19.07%
DOA Architecture/Engineering	61,507,918	5,470,550	8.89%
DOT State Highway Program	<u>282,951,412</u>	<u>17,933,832</u>	6.34%
State Agency Total	\$1,172,001,134	\$86,887,807	7.41%
University of Wisconsin General Purchasing	<u>\$440,647,762</u>	<u>\$7,736,922</u>	1.76%
STATE OF WISCONSIN TOTAL	\$1,612,648,896	\$94,624,729	5.87%

¹Includes enterprise-wide spend on behalf of multiple agencies