

State of Wisconsin Minority Business Report

Fiscal Year 2007 Annual Report

Minority Business Enterprise Program
Department of Administration

May 2008



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

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May 2008

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

Dear Governor Doyle:

Last year, state agencies made strong progress toward the 5 percent minority contracting goal. This report provides information on Fiscal Year 2007 state purchases made with minority business enterprises (MBE) certified by the Wisconsin Department of Commerce. Our progress stems from your commitment to providing full and fair opportunities for all businesses, including MBEs, to compete for state contracts.

In Fiscal Year 2007, Wisconsin state government spent over \$62 million with MBE firms for products, services, facilities and highways. This is the second highest amount spent with minority businesses since the MBE program began.

Fiscal Year 2007 MBE results represent 4.02 percent of overall state spending. State agencies led the way with a 38 percent increase in total spending with certified minority firms. In addition, fourteen agencies surpassed the 5 percent MBE goal in Fiscal 2007, up from seven agencies in 2006.

Through your leadership, opening access to minority-owned businesses who are interested in doing business with the state will continue to be a major focus across state agencies.

Sincerely,

Michael L. Morgan
Secretary of Administration

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

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For More Information

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Executive Summary

Enacted in 1983, the Minority Business Enterprise (MBE) program provides a five percent MBE procurement goal for state agencies and five percent price preference for minority firms certified by the Department of Commerce.

In Fiscal Year 2007, the State (including the University of Wisconsin) spent \$62,120,164 with MBE firms through general procurement, construction, architectural/engineering and State trunk highway programs. This figure represents an MBE participation rate of 4.02 percent on overall spending in FY07.

The FY07 level and percentage of MBE spending compare favorably to historical trends. The 4.02 percent MBE participation rate was third highest in program history; \$62,120,164 was the second highest level of MBE spend since the program began.

Improved MBE performance in FY07 can be attributed to several factors:

- Total state agency spend with MBEs (excluding the University of Wisconsin) through general procurement, construction, architectural/engineering and State trunk highway programs increased by 38 percent, from \$39,981,637 in FY06 to \$55,322,681 in FY07. The overall state agency MBE percentage rose from 2.99 percent in FY06 to 4.86 percent in FY07.
- Division of State Facilities (DSF) architectural/engineering spend with MBEs increased by 81 percent, from \$1,049,827 in FY06 to \$1,898,047 in FY07.
- DSF construction activity with MBEs grew by 53 percent, from \$14,845,371 in FY06 to \$22,661,739 in FY07.
- Department of Transportation State trunk highway contracting with MBEs increased by 36 percent, from \$7,561,302 in FY06 to \$10,246,564 in FY07.
- State agency general procurement activity with MBEs grew by 24 percent, from \$16,525,137 in FY06 to \$20,516,331 in FY07.

In FY06, only seven state agencies achieved the five percent MBE purchasing goal. In FY07, fourteen agencies met or exceeded the goal, led by the State of Wisconsin Investment Board (36.14 percent) and Department of Financial Institutions (33.18 percent).

While state government and the minority business community made significant progress toward achieving the five percent MBE goal in 2007, more work is underway.

The Minority Business Enterprise Program will consult with agencies to provide training, enhance executive support and improve reporting. MBE policies will be strengthened to ensure minority businesses are provided fair and full access to compete for state business. Finally, the program will engage the minority business community to promote MBE-certification and identify purchasing opportunities with agencies and campuses.

Statutory Background

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, 811 were certified MBEs (plus 223 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, June 30, 2007

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

Statutes require agencies to attempt to achieve 5 percent of spending with certified MBEs.

Statutes empower, but do not require, agencies to provide a 5 percent price preference to MBEs.

The Department of Commerce certified 1,034 MBEs on June 30, 2007.

In FY07, these four areas combined to produce \$62,120,164 in direct purchases from certified MBEs, or 4.02 percent of purchases totaling \$1,546,390,882, as follows:

The State's overall MBE percentage was 4.02 percent in Fiscal Year 2007, up from 2.81 percent in Fiscal Year 2006.

FY2007 State of Wisconsin Purchasing from Certified MBEs
By Procurement Area

Purpose or Program	Total Spending	MBE Spending	% MBE
General Purchasing (Agencies and UW)	\$1,019,727,540	\$27,313,814	2.68%
DOA DSF Construction	291,845,698	22,661,739	7.76%
DOA DSF Architecture/Engineering	32,652,616	1,898,047	5.81%
DOT State Highway Program	<u>202,165,028</u>	<u>10,246,564</u>	5.07%
Total	\$1,546,390,882	\$62,120,164	4.02%

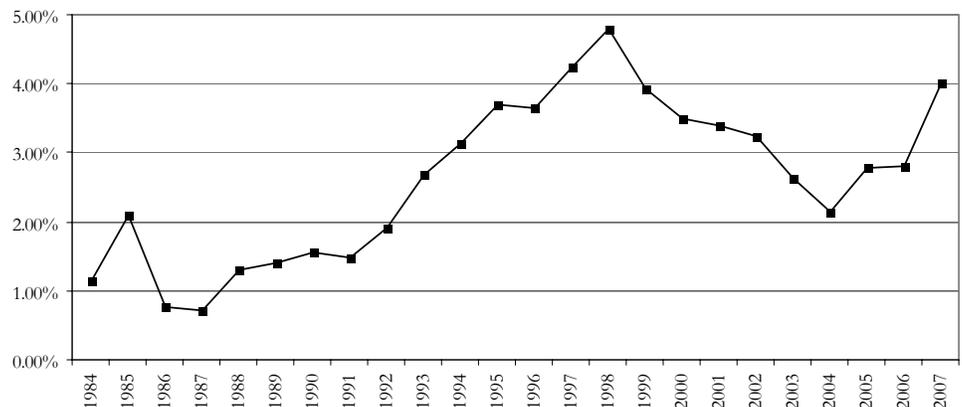
Since 2004, the State of Wisconsin has made steady progress toward meeting the five percent minority business purchasing goal set forth in §16.75(3m)(b), Wis. Stats. In FY07, MBE spending across the four procurement areas rose by \$13,767,742, or 28.5 percent, compared to FY06 results. Additionally, FY07 performance compares well in the context of program history:

Fiscal Year 2007 MBE spending was 28.5 percent higher than Fiscal Year 2006.

- \$62,120,164 spent with MBEs in FY07 represents the second highest dollar level of MBE purchasing since program inception (\$63,437,323 in FY2000).
- The FY07 MBE percentage of 4.02 percent was the third highest percentage level since program inception (4.80 percent in 1998; 4.24 percent in 1997).

The Fiscal Year 2007 MBE percentage was third highest in program history; Fiscal Year 2007 MBE dollar spend was second highest.

State of Wisconsin Overall MBE Percentage, by Fiscal Year

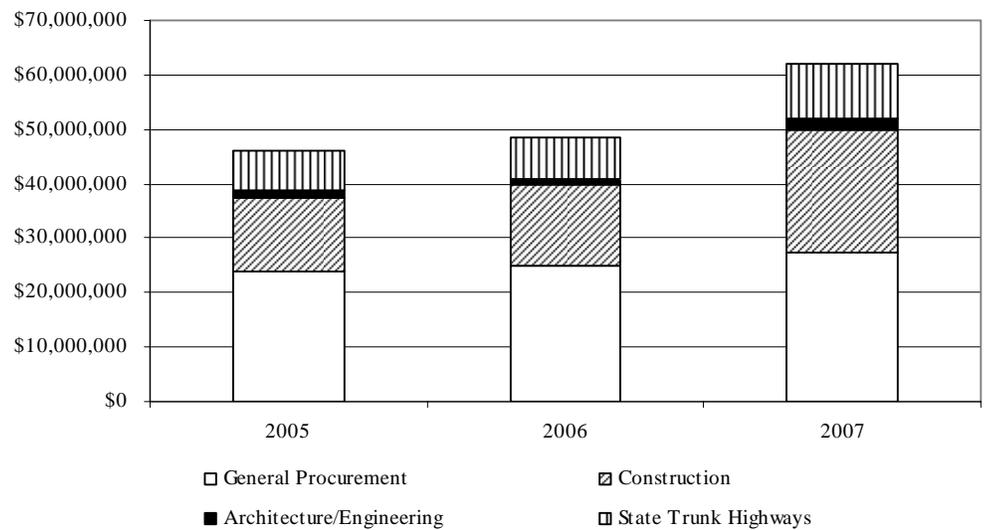


In addition to overall progress toward the five percent goal, individual purchasing areas have also trended higher in recent years. The following table and graph demonstrate recent progress toward the MBE purchasing goal, expressed as both percentage of overall spending and dollars spent with MBEs:

State of Wisconsin MBE Activity by Fiscal Year and Purchasing Area
Percent of spending, by fiscal year

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%

State of Wisconsin MBE Activity by Fiscal Year and Purchasing Area
Dollars spent with MBEs



A detailed summary of FY07 MBE spend by purchasing area and agency is included 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 the 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 5 percent price preference.

State agencies and campuses purchased general goods and services totaling \$1.02 billion in FY07⁴. MBE purchasing totaled \$27.3 million, or 2.68 percent, of all general purchases. FY07 general procurement MBE activity included the following highlights:

- The general procurement MBE spend percentage rose from 2.39 percent in FY06 to 2.68 percent in FY07.
- The dollar volume of general MBE purchasing increased by \$2,417,892—or 10 percent—from FY06 (\$24,895,922) to FY07 (\$27,313,814).
- State agencies reported a 24 percent increase in MBE spending from \$16,525,137 in FY06 to \$20,516,331 in FY07. UW campuses experienced a 19 percent decrease in MBE spending from \$8,370,785 in FY06 to \$6,797,483 in FY07.
- The state agency MBE percentage rose from 2.53 percent in FY06 to 3.36 percent in FY07. The UW MBE percentage decreased from 2.17% in FY06 to 1.66% in FY07.
- Fourteen agencies achieved at least five percent of general spending through certified MBEs in FY07, up from seven agencies in FY06:

1. Investment Board, State of Wisconsin	36.14%
2. Financial Institutions, Department of	33.18%
3. Tourism, Department of	13.47%
4. Regulation & Licensing, Department of	12.23%
5. Workforce Development, Department of	8.48%
6. Elections Board	8.37%
7. Insurance Commissioner, Office of the	7.79%
8. Lieutenant Governor, Office of the	7.61%
9. Employee Trust Funds	6.23%
10. Transportation, Department of	5.69%
11. Supreme Court	5.43%
12. Aging, Board on	5.33%
13. Administration, Department of	5.24%
14. Revenue, Department of	5.03%

- In FY07, two MBE firms were awarded procurement contracts using the five percent minority business price preference under §16.75(3m)(b), Wis. Stats. Preference awards were made to MBE firms in the following areas: boiler and IT consulting services.
- Purchasing card spend totaling \$155 million contained approximately \$709,000 of activity through 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 2007 agency and campus MBE general procurement spend was 10 percent higher than Fiscal Year 2006.

Fourteen agencies met or exceeded the 5 percent MBE goal in Fiscal Year 2007, up from seven agencies in Fiscal Year 2006.

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 System. In addition to construction related services, it serves as staff to the State Building Commission. It is through its major activities that it 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.

In FY07, MBEs were involved in 79 construction projects undertaken by DSF totaling \$291,845,698. MBE participation on those contracts totaled \$22,661,739, a 7.76 percent MBE participation rate in FY07.

Twenty-one minority firms provided services in various architectural and engineering contracts to the State, earning \$1,898,047 in service fees in FY07. This figure represents a 5.81 percent participation rate on \$32,652,616 expended for architectural and engineering services contracts for the fiscal year. This achievement in architectural and engineering spend marks the twentieth year in a row that DSF has met or exceeded the minimum statutory five percent MBE goal.

DSF has also successfully used the permissive preferences on construction projects. Three such preferences were granted by DSF to minority-owned businesses in FY07 for construction contracts.

FY07 marked a successful execution of the Business Opportunities in the Government Sector (BOGS) workshop in Madison in April 2007. DSF also achieved a major milestone in the level of cooperation with various stakeholders and private sector partners in assisting MBEs. It initiated and with the assistance of the Associated General Contractors (AGC) of Wisconsin has published a booklet entitled *Contractor's Companion*, a reference guide and informational publication to assist MBEs become successful in the construction industry.

State Trunk Highways: Road and Bridge Building

DOT expended \$202,165,028 in FY07 for road and bridge building in the State Highway Construction Program. Participation by minority-owned firms in the State Highway Construction Program was \$10,246,564, or 5.07 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 minority firms certified by DOT standards are also certified with the Department of Commerce. During FY07, 692 firms were certified in the Disadvantaged Business Enterprise (DBE) Program. With the execution of the Marquette Interchange Project, considerable opportunities await MBEs in the Milwaukee and surrounding areas.

MBEs participated on State construction projects at a rate of 7.76 percent in Fiscal Year 2007.

MBEs participated in architectural/ engineering contracts at 5.81 percent in Fiscal Year 2007.

State architectural/ engineering spending with MBEs has exceeded the 5 percent goal for 20 consecutive years.

State highway projects had a 5.07 percent MBE participation rate in Fiscal Year 2007.

DOT operates a Minority Business Guarantee Loan Program that offers mobilization assistance to minority firms on a contract. In FY07, one loan totaling \$220,000 was made to a minority firm performing on DOT projects. The Milwaukee Urban League administers this program. Under the Loan Guarantee Program, a DBE that has a prime contract or subcontract for a DOT project can borrow money secured by the contract and the loan guarantee mechanism supported by DOT. The Loan Guarantee Program provides DBE firms with the flexibility to seek further opportunities and additional contracts as there is less stress on their cash flow and the attendant financial barriers associated with the lack of working capital.

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 FY07, SWIB expended 2.65 percent of its bond and stock commission for its financial and investment services with minority-owned firms. This represented payments of \$183,100 on total discretionary commissions of \$6,902,313.

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 and Environmental Improvement Fund. 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. Minority-owned firms have been encouraged to participate in the selling, advising and underwriting of State of Wisconsin bonds and notes in the capital market.

The Capital Finance Office reports that during FY07 minority-owned underwriting firms had the liability and opportunity for \$3,000,000, or 0.18 percent, of \$1,672,540,000 of bonds and notes sold. The Capital Finance Office notes that there were no negotiated sales in FY07, which had a direct impact on the amount of underwriting participation by minority-owned firms.

The Capital Finance Office also manages other funds including the Wisconsin Environmental Improvement Fund (EIF). The EIF is a loan program to municipalities for clean water improvement projects and is monitored jointly with the Wisconsin Department of Natural Resources (DNR). The EIF Program had MBE participation of 7.60 percent in FY07.

SWIB expended 2.65 percent of bond and stock commissions with MBEs in Fiscal Year 2007.

The Environmental Improvement Fund Program had MBE participation of 7.60 percent in FY07.

Federal highway projects had a 7.04 percent participation rate with Disadvantaged Businesses in Fiscal Year 2007.

WHEFA contracted with MBEs at a rate of 3.36 percent in Fiscal Year 2007.

WHEDA's MBE participation rate was 12.93 percent in Fiscal Year 2007.

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 FY07, the DOT Federal Highway Program provided contracts totaling \$30,003,398, or 7.04 percent, to DBEs.

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 FY07, WHEFA provided contracts totaling \$2,916, or 3.36 percent, to minority 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 FY07, WHEDA provided contracts totaling \$236,275, or 12.93 percent, to minority firms.

FY2007 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.

State Agency	Total Spend	MBE Spend	MBE %
Administration, Department of (DOA) ¹	\$74,902,399	\$3,923,430	5.24%
Aging, Board on	66,815	3,564	5.33%
Agriculture, Trade and Consumer Protection, Department of	4,033,310	83,539	2.07%
Arts Board	606,761	0	0.00%
Child Abuse and Neglect Prevention Board	210,868	0	0.00%
Circuit Courts	596,024	0	0.00%
Commerce, Department of	2,049,230	29,967	1.46%
Corrections, Department of	130,028,453	2,399,643	1.85%
Court of Appeals	367,633	0	0.00%
District Attorneys (DOA)	380,510	0	0.00%
Educational Communications Board	3,872,669	1,455	0.04%
Elections Board	3,775,003	315,846	8.37%
Employee Trust Funds	3,793,348	236,191	6.23%
Employment Relations Commission	37,734	0	0.00%
Employment Relations, Office of State	230,074	0	0.00%
Ethics Board	92,827	0	0.00%
Financial Institutions, Department of	2,509,153	832,519	33.18%
Fox River Navigational System Authority	30,700	0	0.00%
Governor, Office of the	210,761	7,033	3.34%
Health and Family Services, Department of	145,495,494	2,421,004	1.66%
Higher Educational Aids Board	140,045	0	0.00%
Historical Society	1,292,606	2,046	0.16%
Insurance Commissioner, Office of the	3,181,598	248,004	7.79%
Investment Board, State of Wisconsin	615,593	222,495	36.14%
Judicial Commission	2,378	0	0.00%
Justice, Department of	8,258,177	81,861	0.99%
Legislature	4,690,857	18,426	0.39%
Lieutenant Governor, Office of the	13,100	997	7.61%
Lower Wisconsin Riverway Board	7,240	0	0.00%
Military Affairs, Department of	4,525,887	191,853	4.24%
Misc. Appropriations	593,462	0	0.00%
Natural Resources, Department of	40,214,032	635,944	1.58%
Public Defender ²	2,450,848	5,608	0.23%
Public Instruction, Department of	28,653,538	171,407	0.60%
Public Lands, Board of Commissioners of	126,728	0	0.00%
Public Service Commission	688,193	5,684	0.83%
Regulation & Licensing, Department of	714,647	87,425	12.23%
Revenue, Department of	27,182,593	1,366,232	5.03%
Secretary of State, Office of the	57,890	0	0.00%
State Fair Park	4,078,372	53,489	1.31%
Supreme Court	5,748,692	312,076	5.43%
Technical College System Board	421,974	0	0.00%
Tourism, Department of	9,502,982	1,279,871	13.47%
Transportation, Department of (DOT)	52,456,483	2,987,118	5.69%
Treasurer, Office of the State	4,181,112	0	0.00%
Veterans Affairs, Department of	9,514,255	219,011	2.30%
Workforce Development, Department of	<u>27,989,847</u>	<u>2,372,593</u>	8.48%
State Agency General Purchasing Total	\$610,592,892	\$20,516,331	3.36%
DOA Construction	291,845,698	22,661,739	7.76%
DOA Architecture/Engineering	32,652,616	1,898,047	5.81%
DOT State Highway Program	<u>202,165,028</u>	<u>10,246,564</u>	5.07%
State Agency Total	\$1,137,256,234	\$55,322,681	4.86%
University of Wisconsin (General Purchasing)	<u>\$409,134,648</u>	<u>\$6,797,483</u>	1.66%
STATE OF WISCONSIN TOTAL	\$1,546,390,882	\$62,120,164	4.02%

¹Includes enterprise-wide spend on behalf of multiple agencies²Public Defender spend excludes contracting with private attorneys under §977.08, Wis. Stats.; Public Defender contract rates are set by statute and not developed following procurement processes specified in §16.75, Wis. Stats.