



pennsylvania
DEPARTMENT OF GENERAL SERVICES

**SMALL
DIVERSE
BUSINESS
PARTICIPATION
SURVEY**

ACT 13 OF 2012

FY 2016-17

Tom Wolf, Governor
Curt Topper, Secretary of General Services

BACKGROUND

This Annual Report for period of April 1, 2016 - March 31, 2017 (fiscal year 2016-2017) is presented to the State Government Committees of the General Assembly to provide information about the utilization of Small Diverse Businesses (SDBs) in contracting opportunities afforded by unconventional natural gas producers (Producers) as required by Section 2316 of Act 13 of 2012, 58 Pa.C.S. § 2316.

Act 13 of 2012 requires the Pennsylvania Department of General Services (DGS) to survey all Producers, and report on Producers' efforts to provide maximum practicable contracting opportunities to SDBs including DGS - verified minority, woman, veteran, and service - disabled - veteran - owned business enterprises. The results of the survey are to be compiled and reported annually.

Act 13 requires Producers to maintain policies prohibiting discrimination in employment and contracting based on gender, race, creed, or color; to use DGS's internet database to identify SDBs contracting opportunities; and to respond to the DGS annual survey within 90 days of receipt.

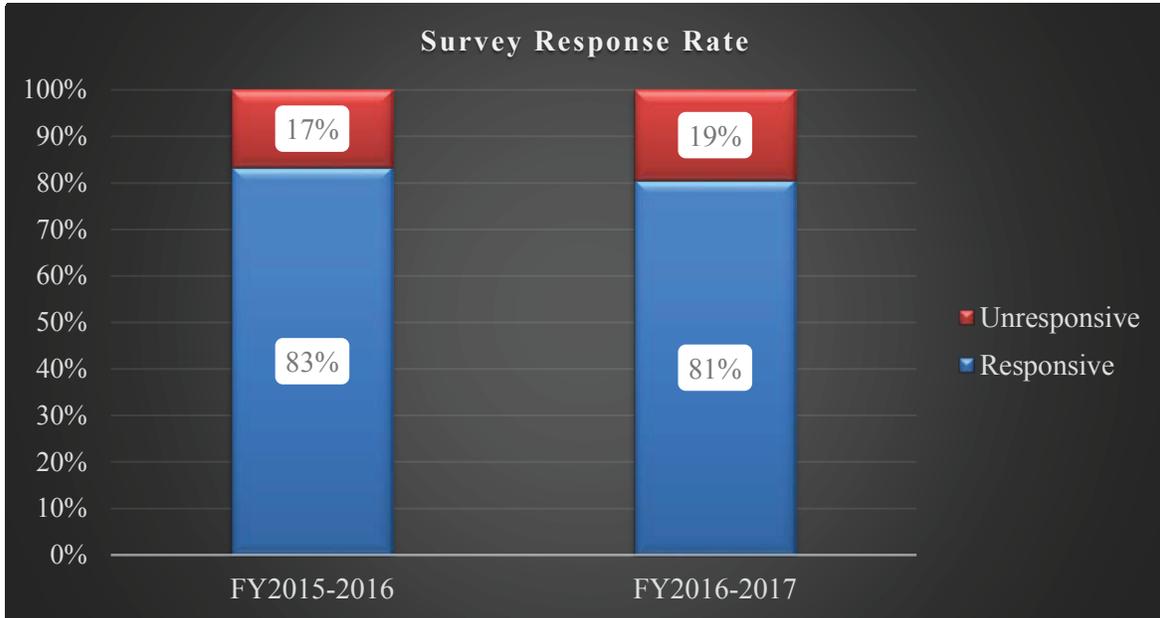
On July 14, 2017, DGS's Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO) distributed the survey to Producers identified by the Pennsylvania Department of Environmental Protection (DEP) as subject to the requirements of Act 13. In collaboration with the Marcellus Shale Coalition, BDISBO identified 72 Producers, and sent a survey to each of those Producers. A copy of the survey is attached as Exhibit A. Producers were required to respond based on their activities during the period between April 1, 2016, and March 31, 2017.

The Marcellus Shale Survey was conducted through SurveyMonkey, an online cloud-based survey service provider. To encourage a high completion rate, BDISBO sent second, third, fourth, and fifth email reminders to Producers who, at that point, had not completed the survey. BDISBO also posted the survey link on its website, emailed PDF versions to Producers upon request, and offered technical assistance on completing the survey. The survey also was designed for ease of mobile, tablet, and desktop accessibility.

FINDINGS AND RESULTS

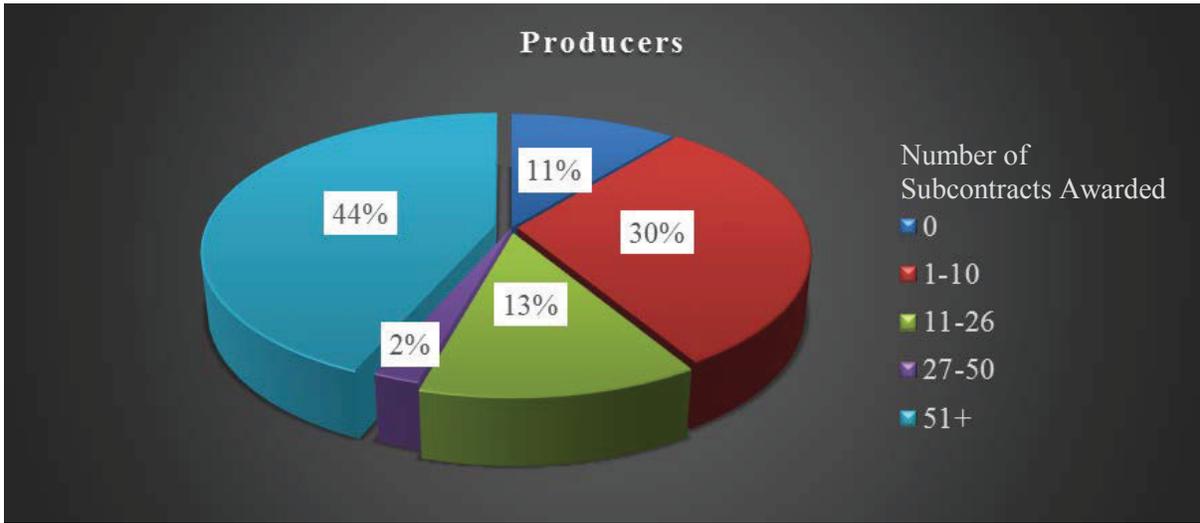
Overall Survey Responsiveness

BDISBO achieved an overall survey response rate of 81%; a two-percentage point decrease from the previous year. Seventy-five out of 90 Producers responded to last year's survey while 58 out of 72 Producers responded this year.



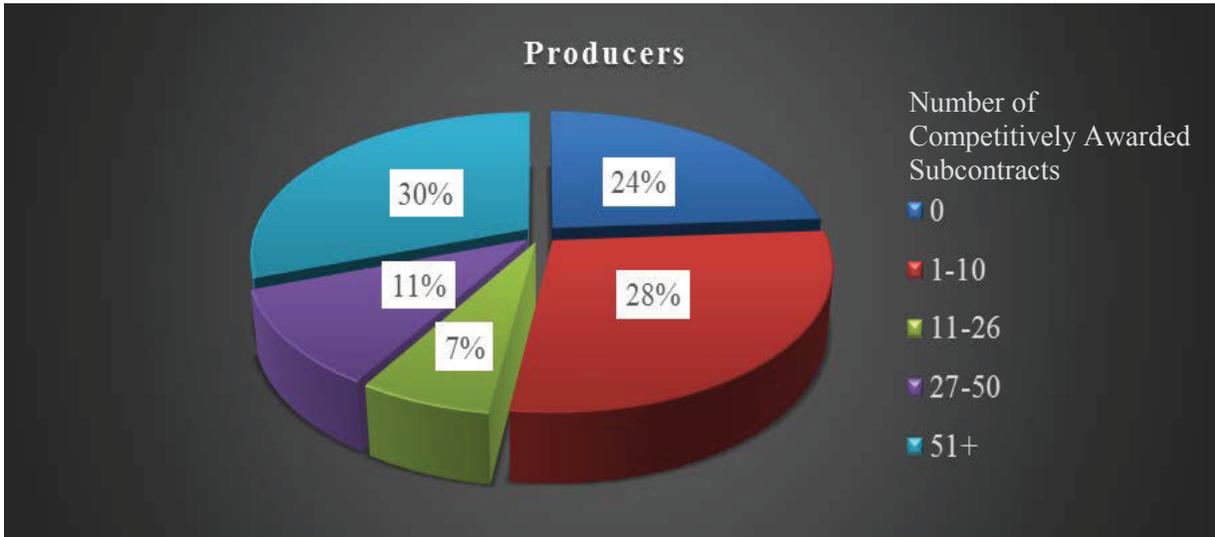
Subcontracts Awarded

Within this reporting period there was a significant increase in the number of Producers who awarded contracts over last year. While last year only 68% of Producers awarded subcontracts, this year 89% of Producers awarded one or more subcontracts for services or supplies related to natural gas extraction. Forty-four percent of these Producers awarded 51 or more subcontracts during this year's reporting period.



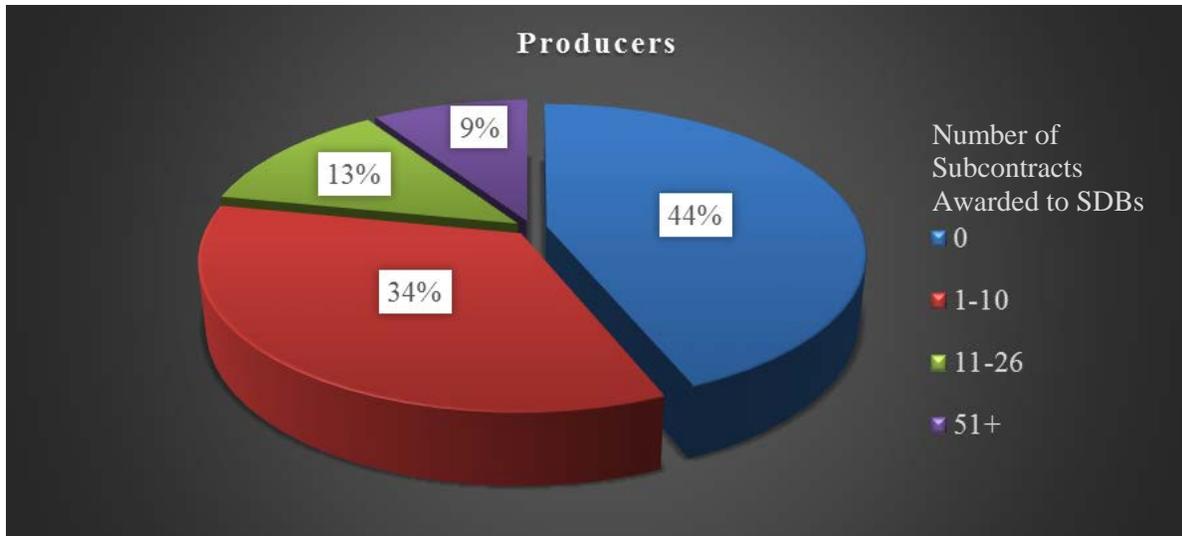
Competitively Awarded Subcontracts

This year there was a 17-percentage point uptick during this reporting period in the number of competitively awarded subcontracts over last year. Seventy-six percent of Producers reported awarding subcontracts on a competitive basis. The chart below contains a breakdown on the percentage of Producers and the number of competitively awarded subcontracts.



Small Diverse Business Utilization

Of the 58 Producers who completed the survey, 56% awarded one or more subcontracts to SDBs. This is an improvement from last year where 45% of Producers awarded subcontracts to SDBs.



As listed in Table 1 below, Producers reported, by designation, that they awarded subcontracts to 67 SDBs resulting in \$128.4 million in payments during the reporting period. However, BDISBO was unable to substantiate these numbers of subcontracts and dollars paid to SDBs. As detailed in Table 2 below, BDISBO verified that Producers awarded contracts to just 15 SDBs resulting in only \$4.3 million paid to SDBs during the reporting period. This is less than 4% of what the Producers reported as being spent on SDB subcontractors during the reporting period. BDISBO attributes this discrepancy to subcontractors who may meet the requirements to be considered an SDB, but have not completed DGS's self-certification and verification process. Although this is problematic, it also presents DGS with the opportunity to engage and assist these subcontractors to complete the certification and verification process.

Table 1

Designation	Count	Amount Paid	Percentage
MBE	12	\$34,349,349.38	26.75%
MWBE	1	\$7,000.00	0.01%
SDVBE	8	\$1,718,851.00	1.34%
VBE	13	\$13,651,133.22	10.63%
WBE	33	\$78,690,156.96	61.28%
Grand Total	67	\$128,416,490.56	100.00%

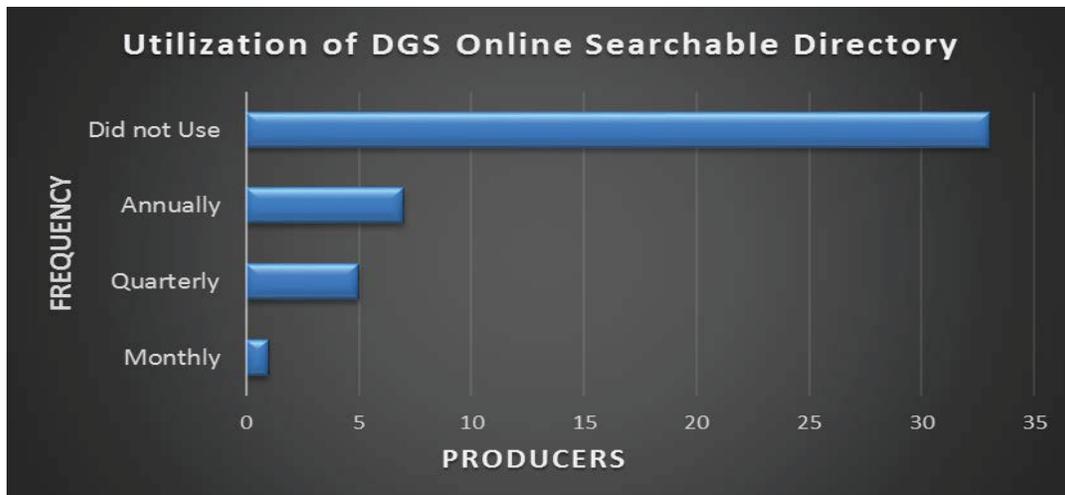
Table 2

Designation	Count	Amount Paid	Percentage
MWBE	1	\$7,000.00	0.16%
SDVBE	2	\$313,000.00	7.18%
VBE	1	\$107,883.00	2.47%
WBE	11	3,931,176.67	90.18%
Grand Total	15	\$4,359,059.67	100.00%

*See Exhibit B for a breakdown of the services/supplies provided.

Producer Outreach Efforts

Pursuant to Section 2316(b)(2) of the Act, Producers are required to use DGS' searchable online directory to identify SDBs. Of the 58 Producers that responded to the survey, 33, or 57%, indicated that they did not utilize the online directory, while just 22% used the database within the reporting period. Twelve Producers did not respond to this question.



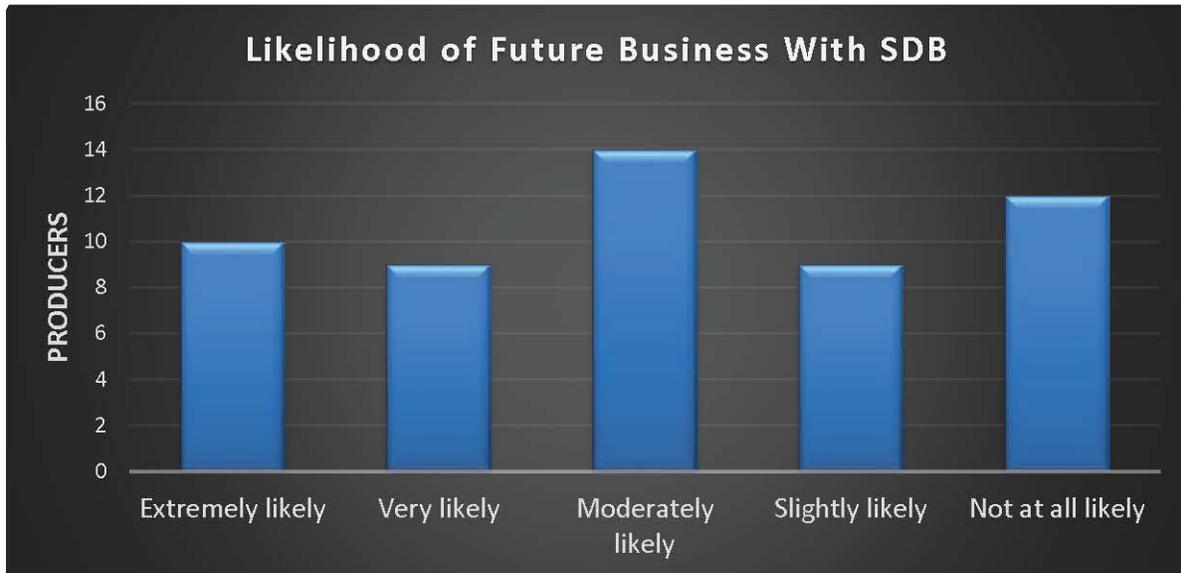
Producers' reasons for their infrequent utilization of the online searchable directory varied from relying on established business relationships to asserting the need for specialized skills and training unique to the industry. Some Producers also reported that they relied on supply chain management solution software like Avetta and RigUp to source subcontractors. Few Producers reported that the online directory was "difficult to use and not user-friendly" due to "absence of vendors operating in relevant geographical area". Other Producers were simply unaware of the online database despite its reference in the Act and the annual survey process.

How can we help?

To better understand our Producers as they strive to comply with Act 13 and its mandate to provide maximum practicable contracting opportunities to small diverse businesses, BDISBO included additional questions in this year's Marcellus Shale Survey. See, Exhibit A (page 10).

BDISBO’s analysis of the data received from the survey shows that:

- When Producers used SDBs, they often had written subcontract agreements.
- Those subcontracts often did not indicate an estimated dollar value that the Producer agreed to pay to the subcontractor. For example, 74% of Producers selected “No” when asked if their subcontracts specified an estimated dollar amount that Producers would pay to the subcontractors.
- Seventy-eight percent of Producers said they would be “Slightly likely” to “Extremely likely” to utilize SDBs in the future.



CONCLUSION AND RECOMMENDATIONS

Producer Compliance with the requirements of Act 13

Cultivating cooperative and mutually-beneficial relationships between Producers and SDBs is a challenge DGS takes seriously as we strive to meet our goals to efficiently, effectively, and safely deliver exceptional value for all Pennsylvanians. Over the last two years, significantly more Producers have responded to the survey. More Producers awarded subcontracts this year than in the prior year and 17% more Producers used competitive methods for contract award this year.

Fifty-six percent of Producers that responded to BDISBO's survey made contract awards to an SDB, which is an improvement from 45% the prior year. Most importantly, Producers are optimistic about future subcontracting work with SDBs.

Most Producers are largely complying with the requirements of Act 13. DGS will continue to collaborate with the DEP and Marcellus Shale Coalition and participate in industry program events in order to promote the utilization of SDBs in this industry.

Recommendations

Although the survey response has improved, DGS remains concerned that Producers are insufficiently utilizing verified SDBs. Section 2316(b)(2) of Act 13 states that Producers shall *“Use the database available on the Internet website of the Department of General Services to identify certified diverse small businesses, including minority-owned business enterprises, women-owned business enterprises and veteran-owned businesses, as potential contractors, subcontractors and suppliers for opportunities related to unconventional natural gas extraction.”*

DGS recommends that the General Assembly review Act 13 and consider potential amendments to Section 2316, such as:

1. **Mandating that Producers Create a SDB Utilization Plan in Coordination with DGS:** The Marcellus Shale Report for FY2017 analysis reflects that 57 percent of the Producers did not utilize the DGS searchable online directory as required by Section 2316 of Act 13. A partnership that includes Producers, SDBs, and BDISBO working together to create a strategy and plan of action would foster greater collaboration between the interested parties would result in an increased usage of DGS' searchable online directory.
2. **Adding Sanctions Against Producers for Non-compliance with the Duties Outlined in the Act:** DGS currently has no mechanism beyond continual reminders and follow-up to ensure Producers complete the survey and cannot penalize Producers that do not use the online directory of verified SDBs. Amending Act 13 to include sanctions for non-response and non-compliance would send a firm message to Producers of the importance of providing opportunities for SDBs to work as subcontractors and suppliers.
3. **Allowing DGS to Audit Producers for Compliance with the Act:** The Act also contains no provisions that would allow DGS to audit Producers' compliance with their responsibilities under the Act. DGS has

no ability to ensure that Producers are complying with the requirement to maintain policies prohibiting discrimination in employment or contracting. In addition, DGS is currently unable to verify and confirm that Producers use and pay their SDBs subcontractors and suppliers.

4. **Requiring Proactive Reporting on Utilization of SDBs:** There is currently no requirement in the Act that Producers provide DGS with their future plans to using SDBs in the upcoming year. Allowing DGS to have visibility into Producers' plans would enable DGS to provide technical assistance by identifying SDBs that are ready, willing, and able to perform those services the Producers require.
5. **Establishing Goals for SDB Participation in Activities Related to Unconventional Natural Gas Extraction, and Providing Incentives for Producers to Meet and Exceed Them:** The Act currently lacks targets for utilization of SDBs and incentives for Producers to include SDBs in contracting opportunities.

As always, DGS is available to answer any questions from members of the General Assembly regarding the information presented above.

EXHIBIT A: Act 13 of 2012 – Small Diverse Business Participation Survey.

Act 13 of 2012: Small Diverse Business Participation Survey

Scope and Purpose

Act 13 of 2012 requires the Pennsylvania Department of General Services (DGS) to survey and collect data on producers' efforts to provide maximum practicable contracting opportunities to small diverse businesses (hereafter SDBs) including minority, woman, veteran, LGBT, disabled, and service-disabled veteran-owned businesses. The results of this survey, including information identifying those companies that do not complete the survey, will be compiled into the Marcellus Shale Annual Report for the General Assembly and made publicly available on the DGS website. Act 13 requires producers to respond to the DGS survey within 90 days of receipt. Data collection is for activity period between April 1, 2016 and March 31, 2017.

Producer Company Name

Producer Company Location

Company Address

Company City

Company State

Company Zip

Contact Information

Producer Contact Name

Survey Preparer Name (if different from above)

Producer Contact Email Address

Producer Contact Telephone

During this reporting period, **April 1, 2016 through March 31, 2017**, did your company utilize a subcontractor?

YES

NO

Initial Questions

How many subcontracts did your company award during the reporting period?

- 0
- 1 - 10
- 11 - 25
- 26 - 50
- 51+

Of the total subcontracts awarded, how many were solicited and awarded competitively?

- 0
- 1 - 10
- 11 - 25
- 26 - 50
- 51+

Of the total subcontracts awarded, how many were awarded to Small Diverse Businesses (SDBs) located within the state of Pennsylvania?

- 0
- 1 - 10
- 11 - 25
- 26 - 50
- 51+

In aggregate, what is the total dollar value you paid to SDB subcontractors between **April 1, 2016** and **March 31, 2017**?

How frequently did your company consult the Department of General Services' searchable online directory to identify DGS certified-verified SDBs prior to selecting subcontractors?

- Weekly
- Monthly
- Quarterly
- Annually
- Did not utilize the DGS searchable online directory within this reporting period

Please provide explanation if the directory was not utilized.

In an effort to provide maximum practicable contracting opportunities, which of the following methods did you use to engage Small Diverse Businesses? (Select all applicable answers)

- Network events
- Job Fairs
- Internet information on bidding opportunities
- Pre-bid/Post-bid meetings for subs and suppliers
- We did not engage in any public outreach/services related to small diverse businesses
- Other (please specify):

Small Diverse Business Participation Section

Using the questions below, record your company's small diverse business participation in contracting opportunities for the reporting period of April 1, 2016 through March 31, 2017. You may also report small diverse business utilization in lower tiers of supply or subcontracting (subcontractors to subcontractors as well as suppliers to contractors and subcontractors) provided that a small diverse business is not the initial subcontractor/supplier. Commitments to small diverse businesses cannot be double-counted regardless of tiers.

NOTE: If your company has greater than five (5) SDB participation, please email the additional list of participants to us at GS-BDISBO@pa.gov.

Helpful Definitions

MBE (Minority Business Enterprise)

WBE (Women Business Enterprise)

MWBE (Minority Women Business Enterprise)

VBE (Veteran Business Enterprise)

MVBE (Minority Veteran Business Enterprise)

SDVBE (Service Disabled Veteran Business Enterprise)

MSDVBE (Minority Service Disabled Veteran Business Enterprise)

DOBE (Disability-Owned Business Enterprises)

LGBTBE (LGBT Business Enterprises)

USBLN (US Business Leadership Network)

NGLCC (National Gay & Lesbian Chamber of Commerce)

DGS Verified (Verified with the Commonwealth of Pennsylvania Department of General Services)

UCP (United Certification Program)

WBENC (Women's Business Enterprise National Council)

NMSDC (National Minority Supplier Development Council)

USSBA8(a) (United States Small Business Administration 8(A) Business Development Program)

VetBiz (Vets First Verification Program)

Small Diverse Business Participation

Subcontractor or Supplier
Name

Approximate Total Dollar
Value of Subcontract(s)

Additional Information

Small Diverse
Business Designation

Certification Entity

Service/Good Provided

Select one
from each
drop-down:

Did your company utilize **another** Small Diverse Business?

- YES
- NO

#2: Small Diverse Business Participation

Small Diverse Business Participation

Subcontractor or Supplier Name

Approximate Total Dollar Value of Subcontract(s)

Additional Information

	Small Diverse Business Designation	Certification Entity	Service/Good Provided
Select one from each dropdown:	<input type="text"/>	<input type="text"/>	<input type="text"/>

Did your company utilize **another** Small Diverse Business?

- YES
- NO

#3: Small Diverse Business Participation

Small Diverse Business Participation

Subcontractor or Supplier Name

Approximate Total Dollar Value of Subcontract(s)

Additional Information

	Small Diverse Business Designation	Certification Entity	Service/Good Provided
Select one from each dropdown:	<input type="text"/>	<input type="text"/>	<input type="text"/>

Did your company utilize **another** Small Diverse Business?

- YES
- NO

#4: Small Diverse Business Participation

Small Diverse Business Participation

Subcontractor or Supplier Name

Approximate Total Dollar Value of Subcontract(s)

Additional Information

	Small Diverse Business Designation	Certification Entity	Service/Good Provided
Select one from each dropdown:	<input type="text"/>	<input type="text"/>	<input type="text"/>

Did your company utilize **another** Small Diverse Business?

- YES
- NO

#5: Small Diverse Business Participation

Small Diverse Business Participation

Subcontractor or Supplier Name

Approximate Total Dollar Value of Subcontract(s)

Additional Information

	Small Diverse Business Designation	Certification Entity	Service/Good Provided
Select one from each dropdown:	<input type="text"/>	<input type="text"/>	<input type="text"/>

Did your company utilize **another** Small Diverse Business?

- YES
- NO

Additional Questions

TO HELP US BETTER UNDERSTAND YOUR COMPANY, PLEASE ANSWER THESE ADDITIONAL QUESTIONS.

How likely are you to subcontract with or utilize a small diverse business (SDB) in the future?

- Extremely likely
- Very likely
- Moderately likely
- Slightly likely
- Not at all likely

When SDBs were utilized, how often did you have a written contract with each subcontractor?

- Always
- Often
- Rarely
- Never
- Did not use SDB subcontractor

Did the written contract indicate an estimated dollar value of what will be paid to the SDB subcontractor?

- YES
- NO

What could the PA Department of General Services Bureau of Diversity, Inclusion and Small Business Opportunities do to make it easier for you to increase your small diverse business participation?

THANK YOU FOR TAKING THE TIME TO COMPLETE OUR SURVEY!

EXHIBIT B: Act 13 of 2012 - Marcellus Shale Producer SDB Utilization

Fiscal Year 2016-17					
Services	MWBE	SDVBE	VBE	WBE	Total
Agriculture, Forestry, & Conservation				2	2
Construction & Building	1	1	1	1	4
Consumer Goods & Supplies				1	1
Machines, Electronics, & Equipment		1	1	1	3
Maintenance & Repair		1		2	3
Mining, Drilling, Excavating, & Demolition				1	1
Professional Services		1		2	3
Scientific & Technical					0
Waste, Recycling, & Remediation				1	1
Grand Total	1	4	2	11	*18

*Of the 15 DGS verified SDBs, some Producers reported more than one service per SDB. This chart represents DGS-verified SDBs.