



SMALL DIVERSE BUSINESS PARTICIPATION SURVEY

ACT 13 of 2012

FY 2015-16

 **pennsylvania**
DEPARTMENT OF GENERAL SERVICES



Tom Wolf, Governor

Curt Topper, Secretary of General Services

BACKGROUND

This Annual Report for period of April 1, 2015 - March 31, 2016 (fiscal year 2015-2016) 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 (hereafter “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 small diverse businesses (hereafter 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 September 12, 2016, DGS’s Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO) distributed the survey to 90 Producers identified by membership organizations and the Pennsylvania Department of Environmental Protection as subject to the requirements of Act 13. 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, 2015 and March 31, 2016.

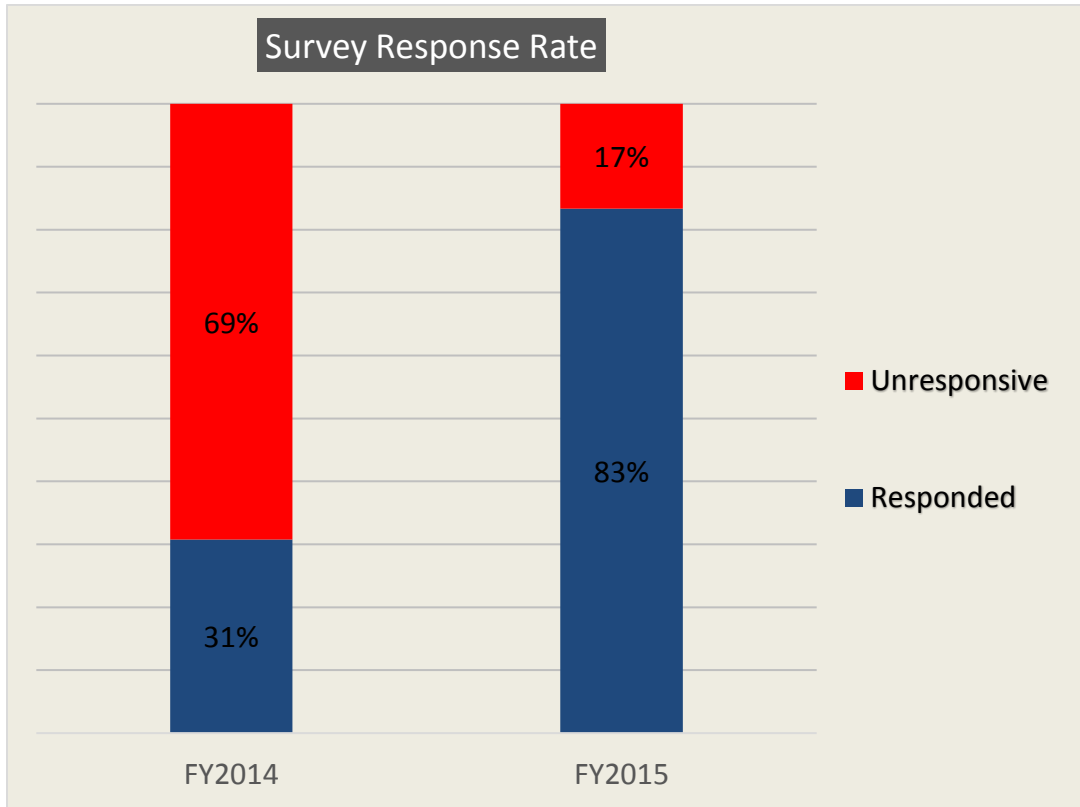
BDISBO used the following methods to encourage a higher response rate:

- Marcellus Shale Online Survey Tool - mobile and desktop accessibility
- Marcellus Shale Survey - Posted on DGS Website
- Reminder Strategy – Subsequent notices distributed to Producers
- Technical Assistance on completing the survey

FINDINGS AND RESULTS

Overall Survey Responsiveness

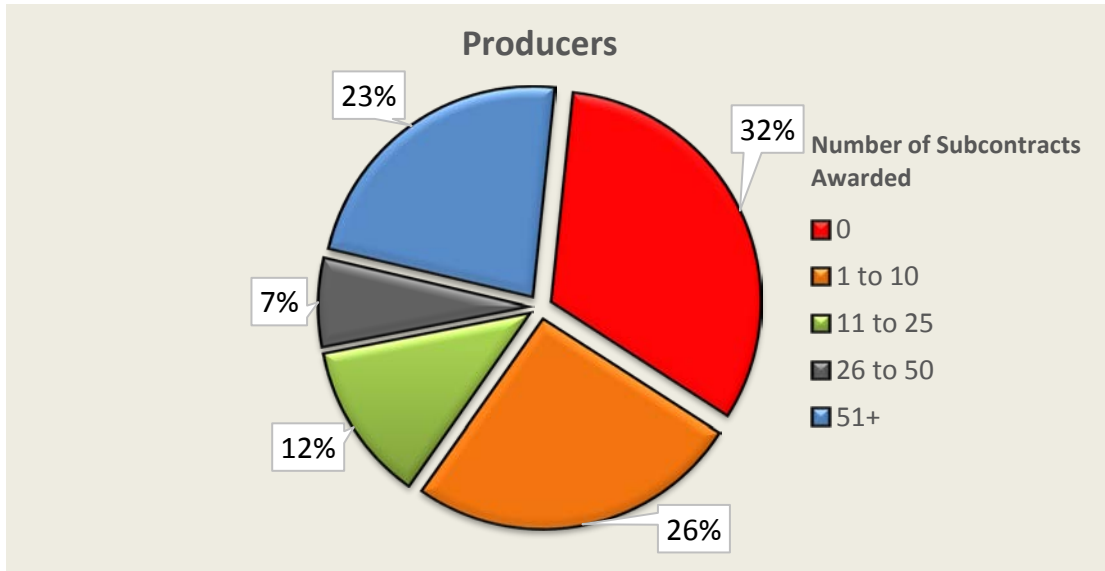
This year, BDISBO achieved a substantial increase in the overall survey response rate. 83 percent of the 90 producers who were sent a survey submitted a response. A majority of Producers are now compliant with Act 13 requirements.



*BDISBO acknowledges that certain membership organizations do not recognize some of the producers identified and included within the survey.

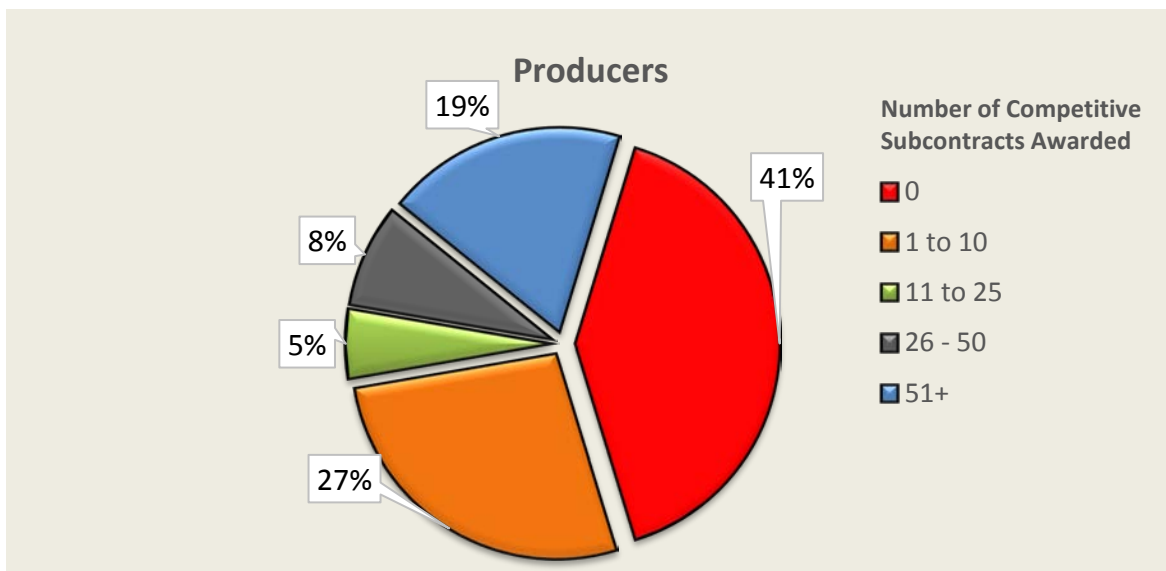
Subcontracts Awarded

As illustrated in the chart below, most Producers, 68 percent, reported the award of one or more subcontracts for services or supplies related to natural gas extraction. 23 percent of these Producers awarded 51 or more subcontracts during the reporting period.



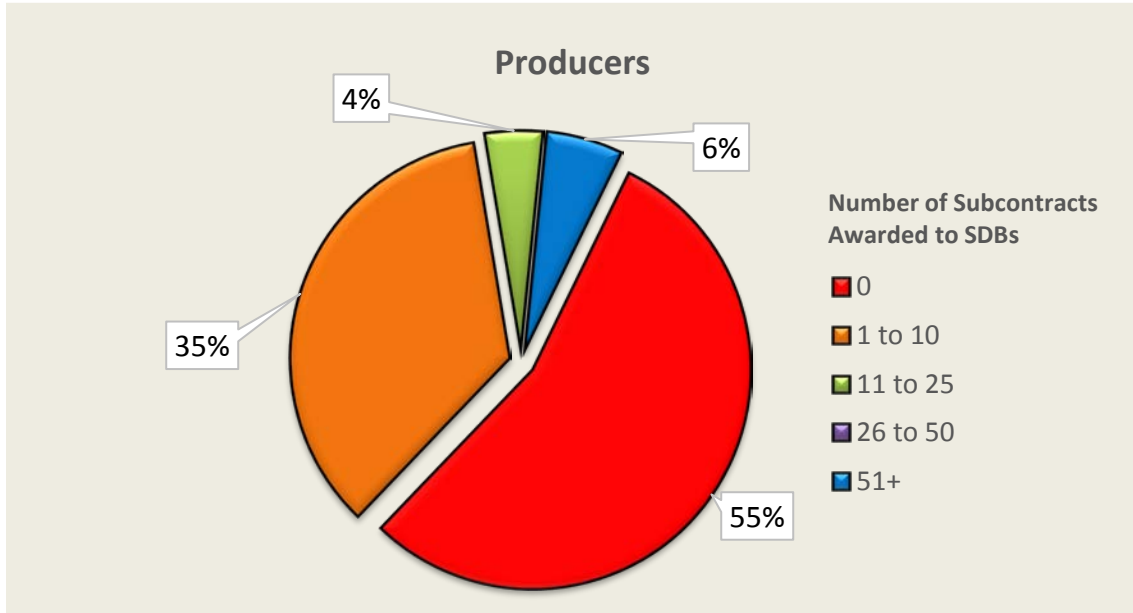
Competitively Awarded Subcontracts

A majority of Producers, 59 percent, reported awarding subcontracts on a competitive basis. A breakdown on the percentage of Producers and the number of competitively awarded subcontracts can be seen on the chart below.



Small Diverse Business Utilization

Of the 75 Producers who completed the survey, 45 percent awarded one or more subcontracts to SDBs while the majority, 55 percent, did not. The chart below provides a visual breakdown of the percentage of producers and the number of SDBs awarded subcontracts.



Producers were asked to report by designation each SDB utilized during the reporting period (Table 1). The names of reported SDBs were then compared with DGS' online directory of verified SDBs (Table 2). Of the 139 SDBs reported as utilized by Producers, only 28 were found in the DGS online directory as verified SDBs.

Table 1

Designation	SDBs	Percentage
MBE	20	14%
WBE	65	47%
MWBE	0	0%
VBE	8	6%
MVBE	0	0%
SDVBE	4	3%
MSDVBE	0	0%
Not Indicated	42	30%
Total	139	100%

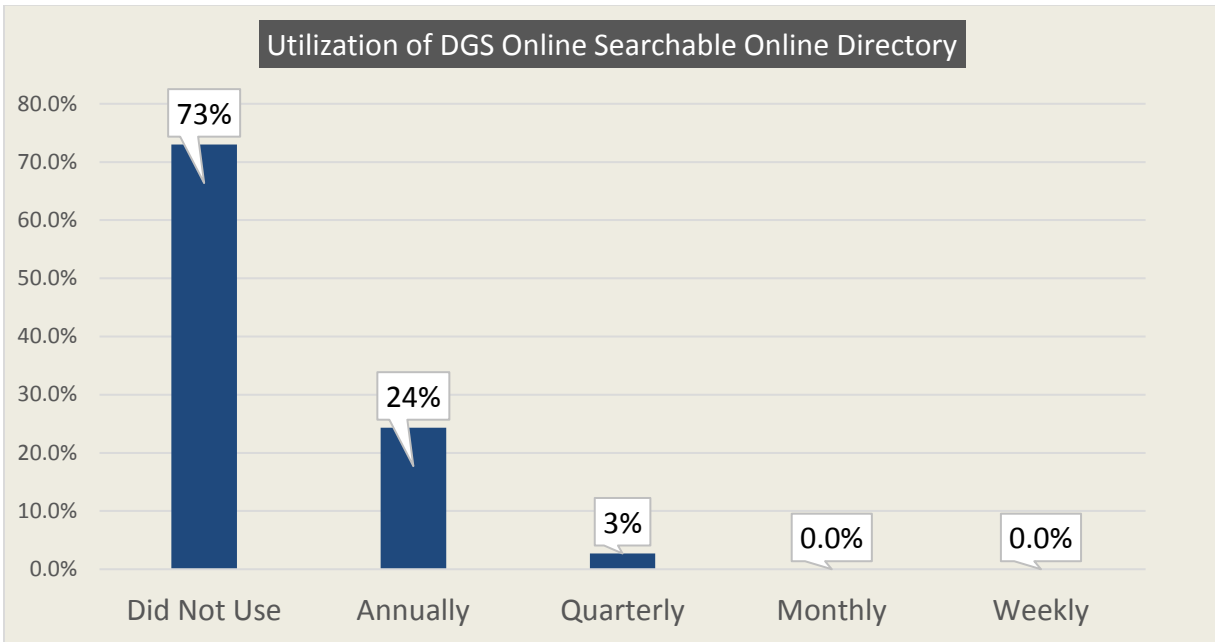
Table 2

Designation	DGS Verified SDBs	Percentage
MBE	2	7%
WBE	21	75%
MWBE	0	0%
VBE	3	11%
MVBE	0	0%
SDVBE	2	7%
MSDVBE	0	0%
Totals	28*	100%

*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 directed to use DGS' searchable online directory to identify SDBs. Of the 75 Producers that responded to the survey, 55, or 73 percent, indicated that they did not utilize the online directory, while just 24 percent used the database annually and three percent used it quarterly within the reporting period.



Producers surveyed indicated that they often had specific needs for equipment, materials, and services and thus relied on existing relationships with established vendors. Additionally, some Producers self-performed 100 percent of the work, and others utilized third-party vendor management groups to source suppliers. Other Producers were simply unaware of the online database despite its reference in the Act and the annual survey process.

CONCLUSION AND RECOMMENDATIONS

Producer Compliance with the requirements of Act 13

DGS has significantly increased the Producer response rate through greater collaboration with the Department of Environmental Protection and the Public Utility Commission. DGS also provided technical assistance to Producers responding to the survey.

Although the survey response has improved, DGS remains concerned that Producers are insufficiently utilizing verified SDBs. Section 2316(b)(2) of the Act 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.”***

In the coming year, DGS will continue to collaborate with Producers’ organizations and will conduct networking events to showcase verified SDBs within the online data base. The networking events will provide producers and the verified SDBs the opportunity to meet with a goal of building business relationships.

Recommendations

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

Mandating that Producers create an SDB Utilization Plan in coordination with DGS: The Marcellus Shale Report for FY2015 analysis reflects that 73 percent of the producers did not utilize the DGS searchable online directory as required by Act 13 of 2012 Section 2316. Working in partnership with DGS to create a strategy and plan of action would foster greater collaboration between Producers, DGS-verified SDBs, and DGS and would result in an increased usage of DGS’ searchable online directory.

Adding sanctions against Producers for non-compliance with the duties outlined in the Act: DGS has no mechanism beyond continual reminders and follow-up to ensure compliance with the survey or to remediate non-use of the online directory of verified SDBs available for utilization. Amending the language to include sanctions for non-response and non-compliance would send a firm message to the Marcellus shale Producers of the importance of providing opportunities for SDBs to work as subcontractors and suppliers.

Allowing DGS to audit Producers for compliance with the Act: Beyond sanctions, the Act contains no provisions for DGS to audit Producers’ compliance. DGS has no assurance that Producers are complying with the requirement to maintain policies prohibiting discrimination in employment or contracting, nor is DGS able to verify and confirm utilization and payment to SDBs utilized as subcontractors and suppliers.

Requiring proactive reporting regarding utilization of SDBs: All efforts reported under Section 2316 are after-the-fact reporting. DGS has no mechanism to review Producers' plans for SDB utilization for the upcoming year. Allowing DGS to have visibility on the Producers' plans would enable DGS to provide technical assistance in identifying SDBs that are ready, willing, and able to perform as subcontractors and suppliers.

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

Act 13 of 2012 requires the Pennsylvania Department of General Services (DGS) to survey all producers, to collect data and to report on the producers' efforts to provide maximum practicable contracting opportunities to small diverse businesses (hereafter SDBs) including minority-, woman-, veteran- and service-disabled veteran-owned businesses. The results of this survey will be compiled and reported to the General Assembly and made publicly available on the department's website. Please note that Act 13 requires producers to respond to the DGS survey within 90 days from receipt.

* 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

* How many subcontracts did your company award during the year?

- 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+

* How frequently did your company consult the Department of General Services' (DGS) database to identify DGS certified-verified SDBs prior to selecting subcontractors? (Section 2316 of Act 13 of 2012, 58 Pa.C.S. 2316)

- Weekly
- Monthly
- Quarterly
- Annually
- Did not utilize the DGS database in the past year

If the database was not utilized, please provide an explanation:

* As part of your efforts to provide maximum practicable contracting opportunities for small diverse businesses, which of the following public outreach/services have you provided:

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

Next

Act 13 of 2012 - Small Diverse Business Participation Survey

Using the questions below, record your company's small diverse business participation in contracting opportunities for the reporting period of April 1, 2015 through March 31, 2016. 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. **If you do not currently have any participation from small diverse businesses, please navigate to the bottom of the page and press "Done."**

NOTE: If your company has greater participation than the below fields allow (more than 25), please email an electronic file to us directly 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)

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

Prime or Subcontractor Name

Subcontractor or Supplier Name

Approximate Value of Subcontract(s)

Additional Information

Select one from each dropdown:

Small Diverse Business Designation	Certification Entity	Service/Good
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Services	Fiscal Year 2015-16					Total
	MBE	WBE	VBE	MWBE	SDVB	
Agriculture, Forestry, & Conservation	0	1	0	0	0	1
Construction & Building	0	2	0	0	0	2
Consumer Goods & Supplies	0	3	0	0	0	3
Information Technology, Systems, & Peripherals	1	1	0	0	0	2
Machines, Electronics, & Equipment	0	1	0	0	0	1
Maintenance & Repair	0	3	0	0	1	4
Mining, Drilling, Excavating, & Demolition	0	4	0	0	0	4
Professional Services	0	8	2	0	0	10
Staffing & Labor Support	0	0	0	0	1	1
Transportation & Vehicles	0	1	0	0	0	1
Utilities, Power, & Fuel	0	0	1	0	0	1
Waste, Recycling, & Remediation	0	1	0	0	0	1
Not indicated	1	2	0	0	0	3
Grand Total:	2	27	3	0	2	34*

* Of the DGS-verified SDBs, there were five that were counted more than once as they provided multiple services.

This chart represents DGS verified SDBs. Some Producers reported more than one service per an SDB.