

**FILED**  
**07-08-2026**  
**Clerk of Circuit Court**  
**Waukesha County**  
**2026CV001202**

STATE OF WISCONSIN    CIRCUIT COURT    WAUKESHA COUNTY

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CITIZENS DEFENDING LIBERTY,  
1241 North Franklin Place  
Milwaukee, WI 53202

Plaintiff,

v.

Declaratory Judgment  
Case Code: 30701  
Case No. 26-CV-

TONY EVERS in his official capacity  
as Governor of Wisconsin  
115 East, State Capitol  
Madison, WI 53702

KATHY BLUMENFELD in her official  
capacity as Secretary of the Department of  
Administration of Wisconsin  
101 East Main Street, 10<sup>th</sup> Floor  
Madison, WI 53703

Defendants.

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**SUMMONS**

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THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within 45 days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court,

whose address is 515 West Moreland Boulevard, Waukesha, WI 53188, and to the Wisconsin Institute for Law & Liberty, Plaintiff's attorneys, whose address is 1241 North Franklin Place, Milwaukee, Wisconsin 53202. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: July 8, 2026

Respectfully Submitted,

WISCONSIN INSTITUTE FOR  
LAW & LIBERTY

*Electronically signed by Daniel P. Lennington*

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**COMPLAINT**

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Plaintiff Citizens Defending Liberty, an unincorporated association of Wisconsin taxpayers, states its complaint against Defendants as follows:

**INTRODUCTION**

1.     The State of Wisconsin runs a racially discriminatory program that spends over \$250 million a year. The Supplier Diversity Program, a procurement program run by the Department of Administration, awards minority-owned businesses a 5% bid preference in all state procurement and contracting areas, including engineering and architectural services, building construction services,

state-funded highway construction, and general procurement (various supplies and services purchased for state business).

2. Race discrimination is unconstitutional. The Equal Protection Clause “requires all individuals to be treated equally without regard to one’s race, ancestry, origin, or ethnicity.” *Rabiebna v. Higher Educ. Aids Bd.*, 2026 WI 20, ¶ 23. All state programs with racial classifications are “odious” and all programs “concerning one’s race are inherently invidious, regardless of how benign or laudable the law may appear.” *Id.* ¶24 (citations omitted). They must satisfy the rigorous multi-factor equal-protection standards outlined in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*, 600 U.S. 181 (2023) and *Louisiana v. Callais*, 146 S. Ct. 1131 (2026).

3. Wisconsin’s supplier program cannot meet any of these exacting standards, let alone all of them. The program should be open to all businesses, regardless of race, and taxpayers should not be forced to fund this odious and invidious race discrimination. This Court should declare its racial preferences and goals unconstitutional and enjoin their use.

### **PARTIES, JURISDICTION, & VENUE**

4. Plaintiff Citizens Defending Liberty is an unincorporated association of taxpayers organized under the laws of the State of Wisconsin. “In Wisconsin, taxpayers may challenge the illegal expenditures of public funds.” *Rabiebna*, 2026 WI 20, ¶ 18.

5. Defendant Tony Evers is the Governor of the State of Wisconsin. He has a constitutional duty to take care that the laws of the state are faithfully executed, including those laws related to the Supplier Diversity Program. Wis. Const. art. V, § 4. He is sued in his official capacity.

6. Defendant Kathy Blumenfeld is the Secretary of the Department of Administration (DOA). She is responsible for overseeing the operations of DOA, including the Supplier Diversity Program. Wis. Stat. § 15.05. She is sued in her official capacity.

7. This court has jurisdiction pursuant to Wis. Stat. §§ 753.03 & 806.04.

#### **STATEMENT OF FACTS**

8. The Supplier Diversity Program is authorized by Wis. Stat. § 16.75(3m) and the racial classifications in Wis. Stat. § 16.287, along with Admin. Code Chapter Adm 84.

9. The Supplier Diversity Program is a state program that ensures at least 5% of all goods and services purchased by the State of Wisconsin are from certified minority-owned business enterprises (MBEs). Wis. Stat. § 16.75(3m). This goal applies to all state procurement and contracting areas, including engineering and architectural services, building construction services, state-funded highway

construction, and general procurement (various supplies and services purchased for state businesses).<sup>1</sup>

10. To achieve this 5% goal, the Supplier Diversity Program discriminates against certain contractors and suppliers based on race by awarding a 5% bid preference for minority-owned business enterprises (MBEs). Wis. Stat. § 16.75(3m)(b)3. Under this scheme, MBEs that submit bids are treated as though their total bid is 5% less than the actual bid, creating an unlevel playing field and inflating the costs of goods and services by discriminating against non-MBE firms. DOA explains the preference as follows: state agencies must award contracts to MBEs that submit “the lowest qualified responsible competitive bid when the bid is not more than 5% higher than the apparent low bid.”<sup>2</sup>

11. For fiscal year 2024 (the latest report available), DOA touted that “diverse suppliers (MBEs and DVBs) accounted for \$265,203,230 of \$3,698,845,991 state agency and UW System spending in general procurement, facilities construction, architecture/engineering, and state highway services during FY24. Diverse supplier purchases represented 7.17% of total spending.”<sup>3</sup>

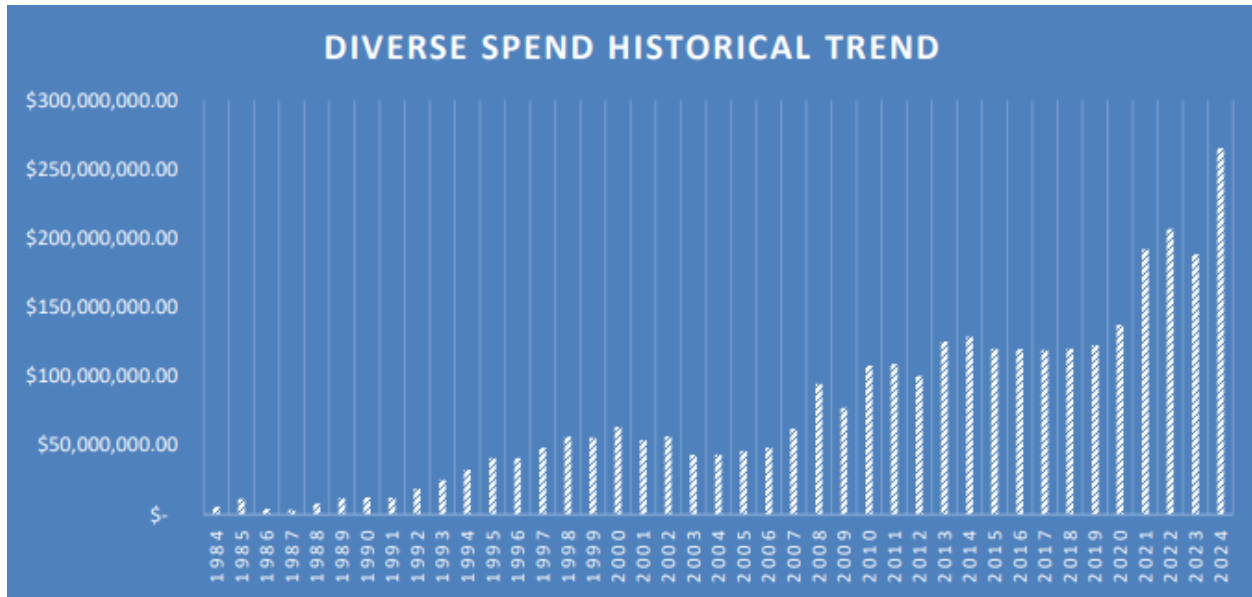
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<sup>1</sup> Reports and other information about the program are available here: <https://supplierdiversity.wi.gov/>.

<sup>2</sup> See generally, DOA, Supplier Diversity Program Report, FY 2024, pg. 6 available [here](#).

<sup>3</sup> *Id.* at pg. 3.

12. The latest spending figures are record high, and every year, more and more taxpayer funds are being spent on this unconstitutional program.<sup>4</sup>



13. Through the program, DOA also sets a goal that 5% of a state's spending be through MBEs. Spending on MBEs for FY2024 was 6.94% of all state spending, and as can be seen by the following chart, however, 22 state agencies exceed this goal.<sup>5</sup>

<sup>4</sup> *Id.* at pg. 9 (Historical Trends).

<sup>5</sup> *Id.* at pgs. 7, 13. While the "diverse spend" includes more than MBE spending, MBE spending constitutes the vast majority of all this spending. The MBE spending is detailed on page 13.

<b>Agency General Procurement</b>	<b>% Diverse Spend</b>
Lower Wisconsin State Riverway Board	68.21%
Supreme Court	42.45%
Financial Institutions, Department of	37.76%
Aging and Long-Term Care, Board on	37.12%
Workforce Development, Department of	24.02%
Elections Commission	22.08%
Employee Trust Funds, Department of	21.56%
Insurance, Commissioner of	21.05%
Children and Families, Department of	20.89%
Justice, Department of	19.19%
Wisconsin Technical College System Board	18.80%
Agriculture, Trade and Consumer Protection, Department of	18.63%
Legislative Technology Services Bureau	17.02%
Administration, Department of	13.30%
Transportation, Department of	12.47%
Governor, Office of the	11.80%
Public Instruction, Department of	10.85%
Historical Society	9.12%
Health Services, Department of	8.06%
Lieutenant Governor, Office of the	7.31%
Natural Resources, Department of	6.94%
Public Lands, Board of Commissioners of	5.09%

14. MBE is defined as a business that is at least 51% owned, controlled and actively managed by one or more minority group members. Wis. Stat. § 16.287(1)(e).

15. Only certain minority races are included as a “minority group member”:

(1) Blacks, whose ancestors originated from any of the black racial groups in Africa,

(2) Hispanics, whose ancestors originated in Mexico, Puerto Rico, Cuba, Central America or South America or whose culture or origin is Spanish; (3) American Indians who are enrolled as members of federally recognized American Indian tribes or bands or who possesses documentation of at least one-fourth American Indian ancestry or

documentation of tribal recognition as an American Indian; (4) Eskimos, (5) Aleuts, (6) Native Hawaiians, (7) Asian-Indians, whose ancestors originated in India, Pakistan or Bangladesh, and (8) Persons of Asian-Pacific origin, whose ancestors originated in Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific or the Northern Marianas. *See* 16.287(1).

16. White-owned businesses—because of the race of their owners—may not participate in the Supplier Diversity Program, receive a 5% bid preference, or benefit from any MBE goals or preferences.

17. Defendants’ definition of “minority group member” under Wis. Stat. § 16.287(1) also excludes persons whose ancestors originated in the following countries—Algeria, Bahrain, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Syria, Tunisia, the United Arab Emirates, Yemen, Afghanistan, Kazakhstan, Uzbekistan, Turkmenistan, Kyrgyzstan, Tajikistan, Armenia, Azerbaijan, Georgia, Sri Lanka, Nepal, Bhutan, Maldives, Burma (Myanmar), Thailand, Malaysia, Indonesia, Singapore, Brunei, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia—even though individuals from these backgrounds are commonly identified as racial or ethnic minorities in the United States.

18. Because the statute creates a closed list with no mechanism for individualized inclusion, minority-owned businesses and white-owned businesses whose owners trace their ancestry to at least 94 countries are categorically ineligible

for MBE certification and therefore cannot participate in the Supplier Diversity Program, receive the 5% bid preference, or benefit from any MBE goals or preferences tied to that definition.

19. The Supplier Diversity Program is funded with tax dollars. Plaintiff Citizens Defending Liberty is an association whose members paid taxes (and continue to pay taxes) that fund the Supplier Diversity Program.

### CAUSE OF ACTION

#### EQUAL PROTECTION VIOLATION UNDER THE UNITED STATES CONSTITUTION

20. Plaintiff realleges and incorporates the preceding allegations of the complaint.

21. Under the 14th Amendment to the United States Constitution, “no state shall ... deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. Amend. XIC, § 1.

22. “At the heart of the Equal Protection Clause is the principle that race-, national origin-, ancestry-, or alienage-based discrimination is unconstitutional except in the most extraordinary instances where such a remedy is required.” *Rabiebnna*, 2026 WI 20, ¶ 23.

23. In *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023), the Supreme Court laid out five independent tests that a racial classification must survive to pass constitutional scrutiny. First, the government must identify one of two compelling governmental interests:

“remediating specific, identified instances of past discrimination that violated the Constitution or a statute” or “avoiding imminent and serious risks to human safety in prisons, such as a race riot.” *Id.* at 207. Second, the program must be narrowly tailored and cannot rely on “imprecise,” “overbroad,” or “underinclusive” racial categories. *Id.* at 216–17. Third, race can never be used as a “negative.” *Id.* at 218–19. Fourth, race can never be used as a “stereotype.” *Id.* at 220–21. And fifth, all race-based programs must have a “logical end point.” *Id.* at 221–22.

24. More recently, in *Louisiana v. Callais*, 146 S. Ct. 1131 (2026), the Supreme Court emphasized two more requirements for a State to establish a compelling interest. First, the state “must identify the specific instances of past discrimination that it aims to remediate and, in light of that specification, must determine the precise scope of the injury it seeks to remedy.” *Id.* at 1153 (citation omitted). “Second, after identifying the specific instance of discrimination, the institution that makes the racial distinction must have a strong basis in evidence to conclude that its remedial action is necessary.” *Id.* (citation omitted) (cleaned up).

25. The Supplier Diversity Program discriminates based on race by excluding some businesses from the benefits of the program based on the race or ethnicity of the owner(s).

26. Defendants have never identified a compelling government interest to support this program. In other words, Defendants have not identified specific instances of past discrimination that they aim to remediate, determined the precise

scope of the injury they seek to remediate, or identified the strong basis in evidence to support these claims.

27. Furthermore, Defendants have never justified the racial categories identified in the definition of MBE. Racial categories, like the ones in Wis. Stat. § 16.287, are unconstitutional. In *SFFA*, the U.S. Supreme Court found the following racial categories unconstitutional: (1) Asian; (2) Native Hawaiian or Pacific Islander; (3) Hispanic; (4) White; (5) African-American; and (6) Native American. The Court stated that these categories were “imprecise” and “plainly overbroad.” *SFFA*, 600 U.S. at 216. “By grouping together all Asian students, for instance, respondents are apparently uninterested in whether *South* Asian or *East* Asian students are adequately represented, so long as there is enough of one to compensate for a lack of the other.” *Id.* And furthermore, Defendants’ categories are “underinclusive” because they cannot explain why individuals whose ancestors are from “Jordan, Iran, Iraq, and Egypt” are excluded. *Id.*

28. Finally, Defendants can offer no evidence defending their use of race as a “negative,” or a “stereotype,” or why the Supplier Diversity Program has “no logical end point.” *See SFFA*, 600 U.S. at 218, 221.

29. The Supplier Diversity Program is therefore unconstitutional under the Equal Protection Clause of the 14th Amendment to the United States Constitution.

### **REQUEST FOR RELIEF**

Plaintiff therefore requests the following relief:

A. Enter a temporary, preliminary, and/or permanent injunction preventing Defendant from enforcing the classifications, preferences, definitions, and goals in the Supplier Diversity Program based on race, ethnicity or national origin.

B. Enter a declaratory judgment that the classifications, preferences, definitions, and goals based on race, ethnicity, or national origin in the Supplier Diversity Program are unconstitutional.

C. Award Plaintiff costs and attorney's fees as allowed by law.

D. Grant Plaintiff such other relief as the Court deems appropriate.

Dated: July 8, 2026

Respectfully Submitted,

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*Electronically signed by Daniel P. Lennington*

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