



## Legislative Fiscal Bureau

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May 6, 2014

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Military Affairs: Section 13.10 Request to Reallocate Funding Originally Provided to Dodge County Under the 2013-15 Southeast Wisconsin Hazardous Materials Task Force Contract -- Agenda Item XIII

### REQUEST

On February 20, 2014, the Joint Committee on Finance received a request from Major General Donald P. Dunbar, under s. 323.70(6) of the statutes, to reallocate the funding originally provided to Dodge County under the previously approved 2013-15 Southeast Wisconsin Hazardous Materials Task Force contract. This statutory section provides for a 14-day passive review process by the Committee of hazardous materials task force contracts. An objection was subsequently raised to the request. As a result, the review of this proposed reallocation of funding is before the Committee under s. 13.10 of the statutes.

### BACKGROUND

In 1984 there was an accidental release of methyl isocyanate from a pesticide plant in Bhopal, India, in which more than 2,000 people suffered death or serious injury. In response, in 1986 the federal government passed the Emergency Planning and Community Right-to-Know Act (EPCRA). Federal law requires local communities to develop emergency plans for possible hazardous chemical releases.

In implementing federal law, state statute provides for the creation of local emergency planning committees by county boards of supervisors. These committees include locally elected officials, emergency response personnel, the public, and operators of affected chemical facilities. The emergency planning of these committees addresses chemical hazards at facilities and various transportation routes across the state.

Under EPCRA and state statute, all facilities in the state at which a hazardous chemical is present at or above an applicable threshold quantity must comply with federal reporting

requirements and is a "reporting facility." A "reporting facility" is required by the federal Occupational Safety and Health Administration (OSHA) to maintain Material Safety Data Sheets on all hazardous chemicals. Such a "reporting facility" must also file with the Department of Military Affairs (DMA) an inventory list of all hazardous chemicals that meet or exceed the applicable reporting threshold for each chemical during the reporting year. As of July, 2013, there were 6,236 reporting facilities across Wisconsin.

Under EPCRA and state statute, a "planning facility" is a facility with extremely hazardous chemicals that meet or exceed the threshold planning quantity for each applicable extremely hazardous chemical. Most "planning facilities" are also "reporting facilities." However, some "planning facilities" claim applicable exemptions and are not required to report. A "planning facility" must work with the applicable local emergency planning committee at the county to develop an off-site plan. The Department requires that individual facility off-site plans include: facility name and location, name of facility emergency planning coordinator with 24-hour-a-day contact phone number, list of primary emergency responders, list of resources available from/at facility, list of outside resources available, hazard analysis of the facility with a vulnerability zone for release of extremely hazardous chemicals stored at the facility, identification of special facilities (such as schools, hospitals, nursing homes, and day care centers) within the zone, and population protection procedures (sheltering and evacuation). As of July, 2013, there were 2,643 planning facilities across Wisconsin.

State statute provides that a level A release "means a release of a hazardous substance that necessitates the highest level of protective equipment for the skin and respiratory systems of emergency response personnel." Hazardous substances may include industrial chemicals, fertilizers, pesticides, petroleum products, explosives, and radioactive substances.

State statute further provides that DMA must contract with no more than nine regional emergency response teams, one of which must be located in La Crosse County, to respond to level A releases of hazardous substances. Further, in providing regional emergency response teams to respond to level A releases, DMA must contract with at least one regional emergency response team in each emergency management region established by the Adjutant General under s. 323.13(2)(a) of the statutes. For the period from July 1, 2012, through June 30, 2013, the state had eight contracts with the following regional emergency response teams: Eau Claire/Chippewa Falls, La Crosse, Madison, Milwaukee, Oshkosh/Appleton, Racine, Superior, and Wausau.

Under state statute, each regional emergency response team is required to respond to level A releases in the region of the state in which the team is located. Appendix I identifies the region of the state for which each regional emergency response team was responsible under the 2012-13 contracts. A member of a regional emergency response team must meet the highest standards for a hazardous materials responder under federal administrative rules and must satisfy specified National Fire Protection Association standards. Military Affairs may only contract with local agencies to serve as regional emergency response teams. Under 2013 Act 20, the Legislature appropriated \$1,247,400 GPR annually to DMA's regional emergency response teams appropriation to make payments to regional emergency response teams responding to level A releases.

State statute provides that a level B release "means a release of a hazardous substance that

necessitates the highest level of protective equipment for the respiratory systems of emergency response personnel, but less skin protection than a level A release, because operations at the site of the release do not involve a high potential for exposure to liquids or particulates that are harmful to the skin or capable of being absorbed through intact skin."

Local emergency planning committees are eligible for emergency planning grant funding not to exceed \$10,000, for up to 80% of the costs of computers and emergency response equipment, if the committee submits to DMA a strategic plan for emergency response to hazardous substance releases that includes: (a) an analysis of the risks of hazardous substance releases in the county; (b) identification of the existing capability for emergency response to hazardous substance releases in the county; (c) an assessment of needs, including equipment and training needs, related to emergency response to hazardous substance releases in the county; (d) a process to maintain or increase the capability for emergency response to hazardous substance releases in the county; (e) procedures for local emergency response team actions that are consistent with state law for local emergency response plans and the state contingency plan; and (f) identification of a local emergency response team that is capable of responding to a level B release that occurs at any place in the county and whose members meet the standards for hazardous materials technicians under federal administrative rules and National Fire Protection Association standards.

On July 18, 2013, the Joint Committee on Finance approved four hazardous materials response system task force contracts for the 2013-15 biennium. These contracts annually allocate the \$1,247,400 GPR in funding that was provided under Act 20 to fund level A teams. While the state previously funded eight level A teams across the state with this funding, under the 2013-15 contracts the state is now divided into four regions to be serviced by the northwest, northeast, southwest, and southeast task forces. Under these contracts, the state makes use of the National Incident Management System (NIMS) and categorizes or types the resources and capabilities of the agencies participating in the four task forces. Under NIMS, these agencies are classified as Type I, II, or III teams. Appendix II identifies: (a) the division of the state between the northwest, northeast, southwest, and southeast task forces under the 2013-15 contracts; and (b) the location of the Type I, II, and III teams under the original 2013-15 contracts.

A Type III team is a team that is appropriately equipped and trained to handle and respond to a chemical release when it is known which chemical was released, in liquid, aerosol, powder or solid forms. A Type III team is not expected to be fully equipped to intervene and handle: (a) vapor/gas emergencies; or (b) incidents involving weapons of mass destruction (WMD) chemical and biological substances.

A Type II team is qualified to handle and respond to all situations to which a Type III team can respond. In addition, a Type II team is a team that is appropriately equipped and trained to handle and respond to a chemical release when it is unknown what chemical was released, in liquid, aerosol, powder, solids, or vapor/gas forms. A Type II team is not expected to intervene and handle incidents involving WMD chemical and biological substances.

Finally, a Type I team is qualified to handle and respond to all situations to which a Type III or II team can respond. In addition, a Type I team is appropriately equipped and trained to handle and respond to all identified and unidentified WMD chemical and biological substances. The

location of the teams across the state is designed to permit the participating agencies to respond to a Type III release within 60 minutes, a Type II release within 90 minutes, and a Type I release within three hours.

Table 1 identifies the teams that make up each of the four task forces under the original 2013-15 contracts, including: (a) their designation as Type I, II and III teams; (b) whether the teams were existing regional teams under the 2012-13 contracts, or are newly participating teams under the 2013-15 contracts; and (c) the amount of the annual allocation to the team under the 2013-15 contracts.

**TABLE 1**

**Teams Under the Regional Task Force Contracts for 2013-15**

<u>Task Force</u>	<u>Team Type</u>	<u>Team</u>	<u>New or Existing Team</u>	<u>Annual Award</u>
Northeast	Type II	Cities of Appleton, Oshkosh & Green Bay	Existing/New	\$135,227
		City of Wausau & Oneida County	Existing/New	104,348
	Type III	Cities of Marshfield & Wisconsin Rapids	New	16,625
		City of Marinette	New	16,625
		Waupaca County	New	<u>16,625</u>
			\$289,450	
Northwest	Type I	Cities of Eau Claire and Chippewa Falls	Existing	\$113,949
	Type II	Cities of Superior & Ashland	Existing/New	92,883
	Type III	Barron County	New	15,549
		Dunn County	New	<u>15,549</u>
			\$237,930	
Southeast	Type I	City of Milwaukee	Existing	\$250,212
	Type II	City of Racine	Existing	98,191
	Type III	Dodge County	New	16,514
		Ozaukee & Washington Counties	New	16,514
		Sheboygan County	New	<u>16,514</u>
			\$397,945	
Southwest	Type II	City of Madison	Existing	\$160,086
		City of La Crosse	Existing	94,550
	Type III	Grant County*	New	20,000
		Columbia County	New	15,813
		Vernon County	New	15,813
		Rock County**	New	<u>15,813</u>
			\$322,075	
		Total	\$1,247,400	

\* In 2013-14, the Grant County award is \$15,813 higher (for a total of \$35,813) to provide one-time equipment funding.

\*\* In 2013-14 only, Rock County will not be funded. In 2014-15, Rock County will receive \$15,813.

Under the 2013-15 contracts, the amounts distributed to the existing and new teams are allocated based on a newly developed formula. First, all teams receive an allocation based on annual stipend amounts provided to participating firefighters (\$1,200 per firefighter for Type I teams, \$1,000 per firefighter for Type II teams, and \$325 per firefighter for Type III teams). In

addition, all teams (Type I, II, and III teams) receive \$425 per firefighter for the cost of annual physicals. These amounts represent the base allocations to the teams.

In addition to the base firefighter allocation described in the preceding paragraph, under the newly developed formula, all teams receive supplemental allocations based on their responsibility within each task force to provide coverage based on reporting facilities within the region, coverage area (square miles), and population. These supplemental allocations are intended to distribute additional resources to teams based on an analysis of risk.

Table 2 identifies the annualized firefighter base allocations, supplemental allocations, and certain adjustment amounts that are received by four teams in two of the four task forces. In addition, Table 2 identifies the assignment of each team to Type I, II, or III, and the coverage responsibility assigned to each team within each task force under the original 2013-15 contracts.

**TABLE 2**  
**Wisconsin Hazardous Materials Response Network**  
**Allocation in 2013-15**

<u>Team</u>	<u>Type</u>	<u>Percent Responsible</u>	<u>Base</u>	<u>Reporting Facilities Amount</u>	<u>Coverage Area Amount</u>	<u>Population Amount</u>	<u>Adjustment</u>	<u>Total Allocation</u>
<b>Northwest Task Force</b>								
Eau Claire-Chip. Falls	I	49.0%	\$71,500.00	\$1,348.35	\$1,964.72	\$39,135.81		\$113,948.88
Superior-Ashland	II	48.0	51,300.00	1,320.83	1,924.63	38,337.12		92,882.58
Barron	III	1.5	14,250.00	41.28	60.14	1,198.04		15,549.46
Dunn	III	1.5	14,250.00	41.28	60.14	1,198.04		15,549.46
<b>Northeast Task Force</b>								
Oshkosh-Appleton-GB	II	53.0%	\$51,300.00	\$2,568.82	\$1,892.06	\$79,465.39		\$135,226.27
Wausau-Oneida	II	33.5	51,300.00	1,623.69	1,195.92	50,228.12		104,347.74
Marinette	III	1.5	14,250.00	72.70	53.55	2,249.02		16,625.27
Waupaca	III	1.5	14,250.00	72.70	53.55	2,249.02		16,625.27
Marshfield-WI Rapids	III	1.5	14,250.00	72.70	53.55	2,249.02		16,625.27
<b>Southwest Task Force</b>								
Madison	II	66.25%	\$37,050.00	\$2,325.75	\$1,568.97	\$78,940.98	\$40,200.00	\$160,085.71
LaCrosse	II	30.00	37,050.00	1,053.17	710.48	35,746.86	19,989.39	94,549.90
Columbia	III	1.25	14,250.00	43.88	29.60	1,489.45		15,812.94
Grant*	III	1.25	14,250.00	43.88	29.60	1,489.45	20,000.00	35,812.94
Rock**	III	1.25						
Vernon	III	1.25	14,250.00	43.88	29.60	1,489.45		15,812.94
<b>Southeast Task Force</b>								
Milwaukee	I	70.0%	\$71,500.00	\$3,426.77	\$640.43	\$154,444.57	\$20,200.00	\$250,211.77
Racine	II	27.0	37,050.00	1,321.75	247.02	59,571.48		98,190.25
Dodge	III	1.0	14,250.00	48.95	9.15	2,206.35		16,514.45
Ozaukee-Washington	III	1.0	14,250.00	48.95	9.15	2,206.35		16,514.45
Sheboygan	III	1.0	14,250.00	48.95	9.15	2,206.35		16,514.45
							Total	\$1,247,400.00

\*In 2013-14, the Grant County award is \$15,813 higher (for a total of \$35,813) to provide one-time equipment funding. In 2014-15, Grant County will receive \$20,000.

\*\*In 2013-14 only, Rock County will not be funded. In 2014-15, Rock County will receive \$15,813.

Military Affairs staff indicate that adjustments were made to the awards for La Crosse, Madison, and Milwaukee under the 2013-15 formula as these teams, "bring the highest number of hazardous materials technicians to the system and each has sustainment costs that the formula did not address adequately." In addition, an adjustment was made for Grant County to provide one-time equipment funding.

The allocation of funding under the 2013-15 contracts to Type I, II, and III teams, included both quantitative and qualitative elements. These allocation levels reflect negotiations between DMA and the local teams.

It should be noted that under the formula as developed by DMA, Northeast Task Force team members were inadvertently not assigned 100% coverage of their region, but rather 91%. Nonetheless, DMA indicates that these Northeast Task Force team members will receive the amounts agreed to in negotiations and that the available funding is fully allocated under the 2013-15 contracts that were approved by the Committee on July 18, 2013.

Prior to this biennium, the state approach to responding to hazardous material releases was to organize teams across the state into level A and level B teams as indicated above. The 2013-15 contracts envision a new system of response under which the participating teams in the four task forces across the state will be classified as Type I, II, or III teams under the National Incident Management System (NIMS), based on their resources and capabilities to respond to various types of incidents as indicated above.

Military Affairs staff indicate that during 2013-14, DMA and the participating teams are transitioning to the new system to respond to hazardous materials releases on which the 2013-15 hazardous materials response system task force contracts are premised. While 2013-14 funding will be allocated as approved under the 2013-15 contracts (with the exception of the Dodge County funding which is the subject of this request), the Department anticipates that all of the participating teams will generally be validated as possessing the resources and capabilities for their team type, either I, II, or III, as of July 1, 2014. Type I teams may be an exception. Given the more substantial equipment requirements to be validated as a Type I team, some Type I teams may still be acquiring necessary equipment to qualify as a Type I team beyond July 1, 2014. [A Type I team is qualified to handle and respond to all situations to which a Type III or II team could respond. In addition, a Type I team is appropriately equipped and trained to handle and respond to all identified and unidentified weapons of mass destruction (WMD) chemical and biological substances.]

## **ANALYSIS**

Dodge County has indicated that it will not participate as a Type III team in the Southeast Wisconsin Hazardous Materials Task Force for 2013-15. [A Type III team is a team that is appropriately equipped and trained to handle and respond to a chemical release when it is known which chemical was released, in liquid, aerosol, powder or solid forms. A Type III team would not be expected to be fully equipped to intervene and handle: (a) vapor/gas emergencies; or (b) incidents involving WMD chemical and biological substances.]

According to DMA, three concerns led Dodge County to decline to participate in the Southeast Task Force. First, many of the participating firefighters in Dodge County are volunteer firefighters. A concern of these volunteers was the unknown as to how often they would need to respond to incidents outside of Dodge County. These volunteers were concerned that employers might change their policies of permitting employees to respond to emergencies if they faced substantial deployments out-of-county under the new system. Second, Dodge County was concerned about the possibility of delay in receiving full reimbursement for incurred costs under the program. However, DMA staff indicate that reimbursement delays have not been an issue with its hazardous materials response program. Finally, Dodge County was uncomfortable with entering into the proposed contract for the Southeast Task Force prior to the final adoption of standard operating guidelines that would govern responses under the contract. In conclusion, Dodge County did not feel that the payment/benefit associated with becoming a Type III team outweighed the concerns identified above.

Under the contract modification submitted to the Committee by DMA, the allocation originally provided to Dodge County under the Southeast Task Force contract of \$16,514.45 annually would be split equally between Rock County and the City of Fond du Lac in 2013-14 (\$8,257.23 to each entity). Given that Dodge County did not utilize its allocated funding in the first half of 2013-14, this funding would be utilized under the request to permit Rock County to mobilize as a Type III team in the Southwest Task Force ahead of the original plan. Under the request, the City of Fond du Lac would step in as a Type III team in place of Dodge County for the second half of 2013-14, and receive half of the annual payment for the fiscal year that Dodge County would have otherwise received.

For 2014-15, funding was already allocated under the Southwest Task Force to fund Rock County as a Type III team. Under the request, for 2014-15, the entire Dodge County allocation of \$16,514.45 would be provided to the City of Fond du Lac to replace Dodge County as a Type III team in the Southeast Task Force.

## **ALTERNATIVES**

1. Authorize the Department of Military Affairs (DMA) to reallocate the funding originally provided to Dodge County under the 2013-15 Southeast Wisconsin Hazardous Materials Task Force contract as follows: (a) split the Dodge County funding equally between Rock County and the City of Fond du Lac in 2013-14 (\$8,257.23 to each entity); and (b) reallocate all of the funding provided to Dodge County in 2014-15 to the City of Fond du Lac (\$16,514.45). Under this alternative, the City of Fond du Lac would step in as a Type III team in place of Dodge County for the second half of 2013-14, and receive half of the annual payment for the fiscal year that Dodge County would have otherwise received. The remaining 2013-14 funding that would have been allocated to Dodge County would be utilized under this alternative to permit Rock County to mobilize as a Type III team in the Southwest Task Force ahead of the original plan. For 2014-15, all of the funding that would have been provided to Dodge County would instead be provided to the City of Fond du Lac to permit it to replace Dodge County as a Type III team in the Southeast Task Force.

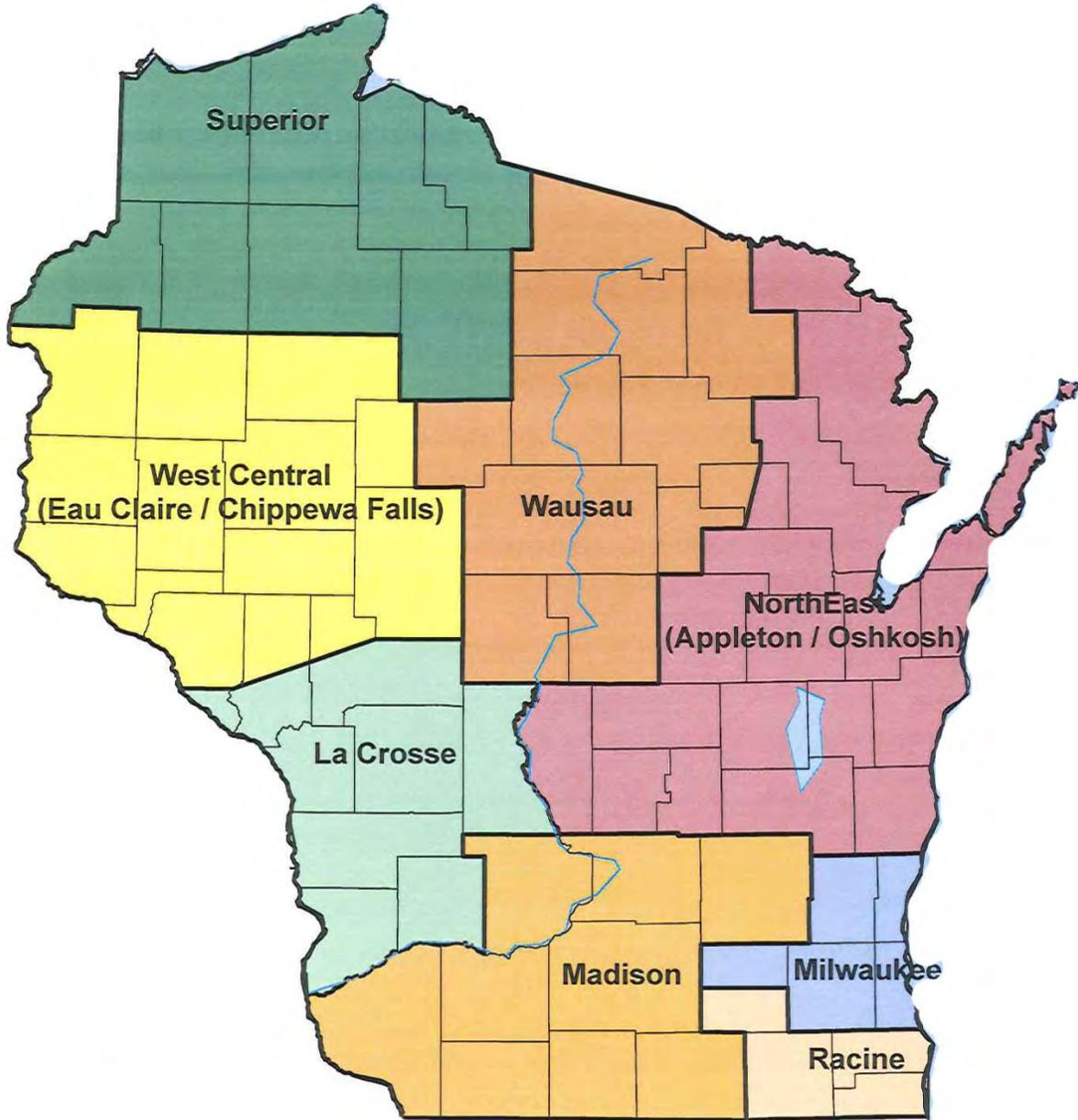
2. Deny the request. [Under this alternative, DMA would need to re-submit a request

to the Committee to reallocate the funding originally provided to Dodge County under the 2013-15 Southeast Wisconsin Hazardous Materials Task Force contract.]

Prepared by: Paul Onsager  
Attachments

**APPENDIX I**

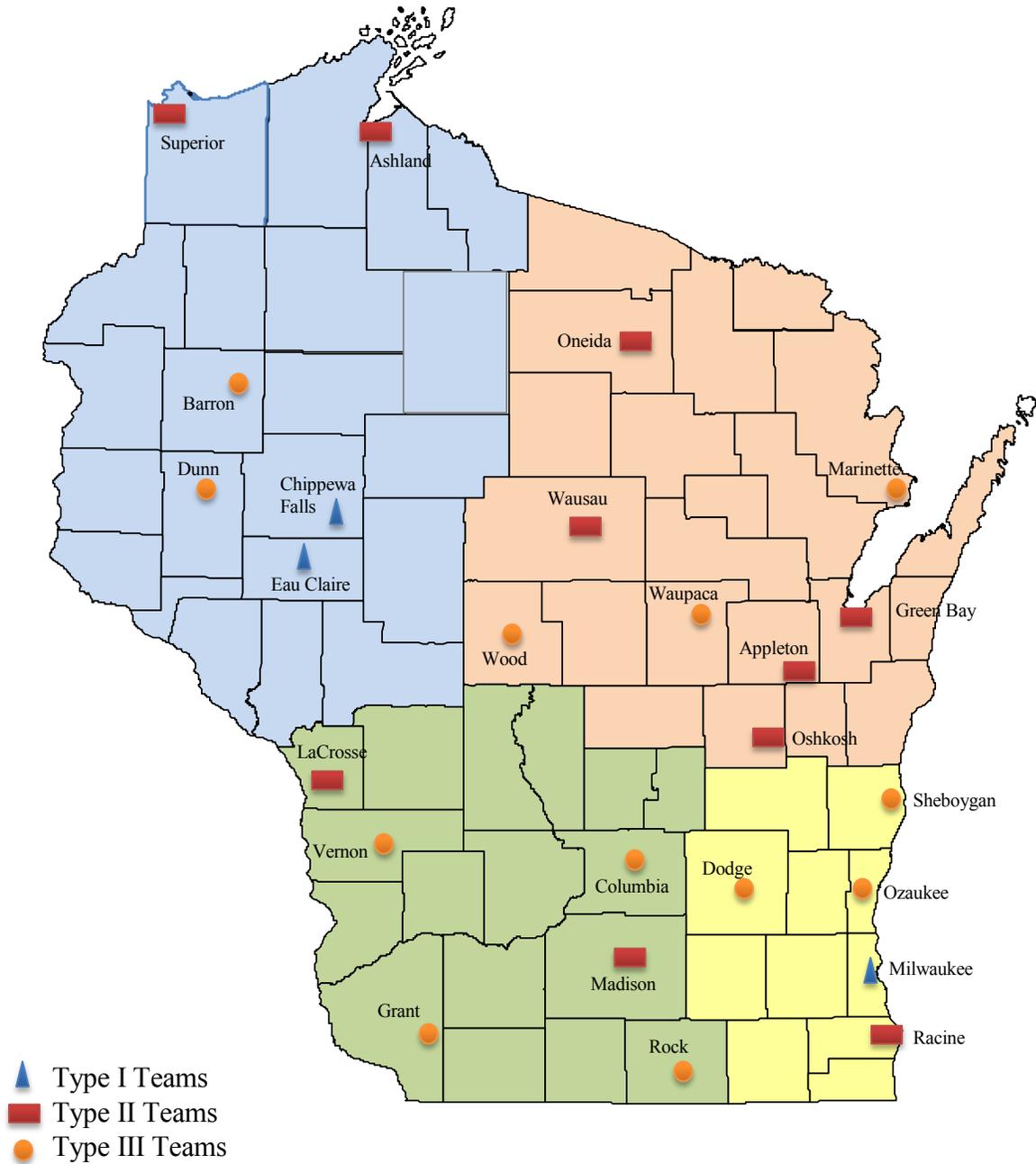
**Division of the State Between Eight Regional Hazmat Teams in 2012-13**



Source: Department of Military Affairs

## APPENDIX II

### Division of the State Among the Four Regional Taskforces in 2013-15



Source: Department of Military Affairs