Chapter 326-30 WAC
GOALS AND GOAL SETTING

WAC
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326-30-061  Effect of decertification, after commencement of work, on counting participation.
326-30-110  Monitoring of compliance with chapter 39.19 RCW.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER
326-30-041  Annual goals.
326-30-050  Contents of agency/educational institution plan. [Statutory Authority: 1983 c 120. 84-03-005 (Order 83-7), § 326-30-050, filed 5/1/84.] Repealed by 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).
326-30-051  Counting participation toward agency and educational institution goals.
326-30-061  Effect of decertification, after commencement of work, on counting participation.
326-30-110  Monitoring of compliance with chapter 39.19 RCW.

WAC 326-30-010 Purpose. The purpose of chapter 120, Laws of 1983 and of this chapter is to provide the maximum practicable opportunity for increased participation by minority and women-owned businesses in public works contracts and in contracts for the procurement of goods and services from the private sector for state agencies and educational institutions.

These rules set forth the procedures by which individual contract goals and the overall annual goals for participation of certified business enterprises are set and reviewed; and the procedures to be used by the office in monitoring compliance.


WAC 326-30-020 Scope. This chapter applies to all public works, personal service contracts, and procurement from the private sector of goods and services by state agencies and educational institutions not expressly exempted or excluded by this chapter.

These rules do not pertain to agency/educational institution expenditures such as: Amortization; debt service; depreciation; employee benefits including but not limited to mileage, per diem, relocation expenses, and salaries; per diem for prospective state employees; members of institutions' boards and agencies' commissions; postage; relocation expenses for prospective employees; and transfers of charges.


WAC 326-30-030 Procedure for setting overall annual goals. The director of the office of minority and women's business enterprises will establish overall annual goals for participation in state contracts by qualified MBEs and WBEs for all state agencies and educational institutions.

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The annual period shall be the state fiscal year. The goals will be a percentage of the reporting base which includes all expenditures for public works, personal services, and for the procurement of goods and services by state agencies and educational institutions.

(1) Time for establishment of goals. The overall annual goals will be adopted each year by June 15.

(2) Distribution. The overall annual goals will be distributed to the head of each agency and educational institution on or before June 30 each year.

(3) Process used to establish goals. The director will review the overall annual goals each year and establish goals for the upcoming year. In establishing the new goals, the director shall consider the following categories of information, to the extent that such data is reasonably obtainable: (a) The number of certified businesses available to perform work in each class of contract; (b) the state's success in attaining goals over the last year; (c) information regarding the percentage of available MBEs and WBEs as compared to the percentage of dollars awarded to MBEs and WBEs, per class of contract; (d) information indicating discrimination against minority and women-owned businesses in each class of contract; (e) and such other relevant information as may be available.

WAC 326-30-041 Annual goals. The annual overall goals for participation by certified firms in the public works, other contracting, and procurement of each state agency and educational institution, subject to this chapter, shall be as follows:

July 1, 2000, through June 30, 2001,

<table>
<thead>
<tr>
<th>Category</th>
<th>MBE Goal</th>
<th>WBE Goal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction/Public Works</td>
<td>10%</td>
<td>6%</td>
</tr>
<tr>
<td>Architect/Engineering</td>
<td>10%</td>
<td>6%</td>
</tr>
<tr>
<td>Purchased Goods</td>
<td>8%</td>
<td>4%</td>
</tr>
<tr>
<td>Purchased Services</td>
<td>10%</td>
<td>4%</td>
</tr>
<tr>
<td>Professional Services</td>
<td>10%</td>
<td>4%</td>
</tr>
</tbody>
</table>

WAC 326-30-046 Procedures for setting goals on individual transactions. Each agency and educational institution shall establish goals for the participation of MBEs and WBEs on individual purchases and contracts. Factors to be considered include, but are not limited to:

(1) The number of MBEs and WBEs available to perform work in the contract;

(2) The agency/educational institution's success in attaining goals during the current year;

(3) Whether there is an opportunity to facilitate the entry of certified businesses into industries in which such firms are underrepresented.

WAC 326-30-051 Counting participation toward agency and educational institution goals. The office will count an agency's or educational institution's expenditures to certified businesses toward goal attainment as follows:

(1) Prime contractors and consultants.

(a) Where a certified business performs a commercially useful function in the work of the contract, the dollar value of expenditures to the business for such work will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(b) Where a certified business is a partner in a joint venture, and the business performs a commercially useful function in the work of the contract, only the dollar value of expenditures to the certified business which is commensurate with its interest in the joint venture will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(2) Subcontractors and subconsultants.

(a) Where a certified business performs a commercially useful function in the work of a subcontract, the dollar value of expenditures to the business for such work will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(b) Where a certified business is a subcontractor on a heavy construction, highway, or street construction project, expenditures to the certified business shall not be counted toward goal attainment if the business subcontracts more than twenty-five percent of the total amount of its own subcontract to a noncertified business.

(3) Suppliers.

Where a certified business is the manufacturer or a regular dealer of goods or materials required under a contract, one hundred percent of the dollar value of expenditures to the business for such materials or supplies will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(4) Where a certified business is a broker of goods or materials required under a contract, effective June 6, 1996, the value of the goods or materials will not be counted. Only the dollar value of the fee or commission charged or twenty percent (five percent in the case of food brokers) of the dollar value of expenditures to the business, whichever is greater, will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(5) Where a certified business is a hauler, trucker, or delivery service, but is not also a regular dealer or the manufacturer of the goods or materials required on the job site, the dollar value of expenditures to the business for fees charged to deliver the goods or materials required will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.

(6) Where a certified business provides bonds or insurance specifically required for the performance of a contract, the dollar value of expenditures to the business for the fee or commission charged for providing the bonds or insurance will be counted toward the agency or educational institution's
goal attainment according to the certification status of the business.

(7) Where a certified business is a travel agency or other business performing similar functions, twenty percent of the dollar value of expenditures to the business to provide a bona fide service in the procurement of transportation will be counted toward the agency or educational institution's goal attainment according to the certification status of the business.


**WAC 326-30-061 Effect of decertification, after commencement of work, on counting participation.** (1) Where a certified business is decertified after it has begun work on a contract, for reasons other than having exceeded the size standard, only the dollar value of expenditures to the business made prior to the date of decertification plus sixty days will be counted toward the agency's or educational institution's overall annual goal attainment.

(2) Where a certified business is decertified because it was found to exceed the size standard after it has begun work on a contract, the dollar value of all expenditures to the business for work which constitutes a commercially useful function until the completion of that contract will be counted toward the agency's or educational institution's overall annual goal attainment.

(3) Where a certified business is decertified pursuant to WAC 326-20-173, i.e., because of the owner's death or disability, the dollar value of all expenditures to the business prior to the date of decertification plus sixty days will be counted toward the agency's or educational institution's overall annual goal attainment: Provided, That the business performed a commercially useful function in the contract.

[Statutory Authority: RCW 39.19.030(7). 92-20-124, § 326-30-061, filed 10/7/92, effective 11/7/92.]

**WAC 326-30-110 Monitoring of compliance with chapter 39.19 RCW.** The office will monitor the performance of each state agency and educational institution and generate periodic status reports for their internal use from data developed pursuant to WAC 326-40-050.

The office will issue a report annually on the total expenditures of the state and the dollars expended with certified businesses by each agency and educational institution. The report will include the percentage paid to certified businesses. The report will be provided to the governor and the legislature as required by RCW 39.19.030(8).

[Statutory Authority: RCW 39.19.030(7). 92-20-124, § 326-30-110, filed 10/7/92, effective 11/7/92. Statutory Authority: 1983 c 120. 84-03-005 (Order 83-7), § 326-30-110, filed 1/5/84.]