

Chapter 326-30 WAC

GOALS AND GOAL SETTING

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

326-30-035	Goals for 1983-84. [Statutory Authority: 1983 c 120. WSR 84-03-005 (Order 83-7), § 326-30-035, filed 1/5/84.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).
326-30-036	Goals for 1984-85. [Statutory Authority: Chapter 39.19 RCW. WSR 84-17-049 (Order 84-7), § 326-30-036, filed 8/13/84.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).
326-30-037	Goals for 1985-86. [Statutory Authority: Chapter 39.19 RCW. WSR 85-20-058 (Order 85-9), § 326-30-037, filed 9/26/85.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).
326-30-038	Goals for 1986-87. [Statutory Authority: Chapter 39.19 RCW. WSR 86-17-018 (Order 86-2), § 326-30-038, filed 8/11/86.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).
326-30-039	Goals for 1987-88. [Statutory Authority: Chapter 39.19 RCW. WSR 87-18-029 (Order 87-5), § 326-30-039, filed 8/27/87.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).
326-30-03901	Goals for 1988-1989. [Statutory Authority: Chapter 39.19 RCW. WSR 88-17-045 (Order 88-8), § 326-30-03901, filed 8/16/88.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).
326-30-03902	Goals for 1989-90. [Statutory Authority: RCW 39.19.-030(7). WSR 90-06-041, § 326-30-03902, filed 3/1/90, effective 4/1/90.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).
326-30-03903	Goals for 1990-91. [Statutory Authority: RCW 39.19.-030(7). WSR 90-21-139, § 326-30-03903, filed 10/24/90, effective 11/24/90.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).
326-30-03904	Goals for 1991-92. [Statutory Authority: RCW 39.19.-030(7). WSR 91-18-041, § 326-30-03904, filed 8/30/91, effective 9/30/91.] Repealed by WSR 95-19-014, filed 9/7/95, effective 10/8/95. Statutory Authority: RCW 39.19.030(7).
326-30-040	Agency/educational institution responsibilities. [Statutory Authority: 1983 c 120. WSR 84-03-005 (Order 83-7), § 326-30-040, filed 1/5/84.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).
326-30-050	Contents of agency/educational institution plan. [Statutory Authority: 1983 c 120. WSR 84-03-005 (Order 83-7), § 326-30-050, filed 1/5/84.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).
326-30-060	General exclusions from the contracting base. [Statutory Authority: Chapter 39.19 RCW. WSR 88-17-045 (Order 88-8), § 326-30-060, filed 8/16/88. Statutory Authority:

1983 c 120. WSR 84-03-005 (Order 83-7), § 326-30-060, filed 1/5/84.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).

326-30-070 Extraordinary exclusions from the contracting base. [Statutory Authority: 1983 c 120. WSR 84-03-005 (Order 83-7), § 326-30-070, filed 1/5/84.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).

326-30-080 Substitutions in contracts requiring MWBE participation. [Statutory Authority: 1983 c 120. WSR 84-03-005 (Order 83-7), § 326-30-080, filed 1/5/84.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).

326-30-090 Timely certification. [Statutory Authority: 1983 c 120. WSR 84-03-005 (Order 83-7), § 326-30-090, filed 1/5/84.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).

326-30-100 Agency/educational institution reporting of MWBE participation. [Statutory Authority: Chapter 39.19 RCW. WSR 84-17-049 (Order 84-7), § 326-30-100, filed 8/13/84; WSR 84-09-002 (Order 84-5), § 326-30-100, filed 4/5/84; WSR 84-06-017 (Order 84-4), § 326-30-100, filed 2/29/84. Statutory Authority: 1983 c 120. WSR 84-03-005 (Order 83-7), § 326-30-100, filed 1/5/84.] Repealed by WSR 92-20-079, filed 10/6/92, effective 11/6/92. Statutory Authority: RCW 39.19.030(7).

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.

[Statutory Authority: RCW 39.19.030(7). WSR 92-20-079, § 326-30-010, filed 10/6/92, effective 11/6/92. Statutory Authority: 1983 c 120. WSR 84-03-005 (Order 83-7), § 326-30-010, filed 1/5/84.]

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.

[Statutory Authority: RCW 39.19.030(7). WSR 92-20-079, § 326-30-020, filed 10/6/92, effective 11/6/92. Statutory Authority: 1983 c 120. WSR 84-03-005 (Order 83-7), § 326-30-020, filed 1/5/84.]

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. 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.

[Statutory Authority: RCW 39.19.030(7). WSR 92-20-079 and 92-20-124, § 326-30-030, filed 10/6/92 and 10/7/92, effective 11/6/92 and 11/7/92; WSR 90-06-040, § 326-30-030, filed 3/1/90, effective 4/1/90. Statutory Authority: 1983 c 120. WSR 84-03-005 (Order 83-7), § 326-30-030, filed 1/5/84.]

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,

Construction/Public Works	10% MBE	6% WBE
Architect/Engineering	10% MBE	6% WBE
Purchased Goods	8% MBE	4% WBE
Purchased Services	10% MBE	4% WBE
Professional Services	10% MBE	4% WBE

[Statutory Authority: RCW 39.19.030(7). WSR 00-17-059, § 326-30-041, filed 8/9/00, effective 9/9/00; WSR 98-20-005, § 326-30-041, filed 9/24/98, effective 10/25/98; WSR 97-16-073 § 326-30-041, filed 8/4/97, effective 9/4/97; WSR 96-14-064, § 326-30-041, filed 6/28/96, effective 7/29/96; WSR 95-19-014, § 326-30-041, filed 9/7/95, effective 10/8/95; WSR 95-10-086, § 326-30-041, filed 5/3/95, effective 6/3/95; WSR 94-03-068, § 326-30-041, filed 1/14/94, effective 2/14/94; WSR 92-20-079, § 326-30-041, filed 10/6/92, effective 11/6/92.]

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.

[Statutory Authority: RCW 39.19.030(7). WSR 92-20-079, § 326-30-046, filed 10/6/92, effective 11/6/92.]

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.

[Statutory Authority: RCW 39.19.030(7). WSR 96-24-085, § 326-30-051, filed 12/3/96, effective 1/3/97; WSR 94-07-064, § 326-30-051, filed 3/14/94, effective 4/14/94; WSR 92-20-079 and 92-20-124, § 326-30-051, filed 10/6/92 and 10/7/92, effective 11/6/92 and 11/7/92.]

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