

WAC 326-02-030 Definitions. Words and terms used in this title have the same meaning as each has under chapter 43.19 RCW, unless otherwise specifically provided in this title, or the context in which they are used clearly indicates another meaning.

(1) "Advisory committee" means the advisory committee for the office of minority and women's business enterprises.

(2) "Affiliation" has the same meaning as the Small Business Administration (SBA) regulations, 13 C.F.R. Part 121. Except as otherwise provided in 13 C.F.R. Part 121, concerns are affiliates of each other when, either directly or indirectly:

(a) One concern controls or has the power to control the other;

(b) A third party or parties controls or has the power to control both; or

(c) An identity of interest between or among parties exists such that affiliation may be found.

(3) "Alaska native corporation" means any regional corporation, village corporation, urban corporation, or group corporation organized under the laws of the state of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.).

(4) "Assets" means all the property of a person available for paying debts or for distribution, including the person's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

(5) "Broker" means a person who provides a bona fide service, such as professional, technical, consultant, brokerage, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of a contract.

(6) "Certified business" means a for profit business that has been approved for certification by the Washington state office of minority and women's business enterprises. Businesses certified through the agency's state program include: A minority business enterprise (MBE), a women's business enterprise (WBE), a minority woman's business enterprise (MWBE), a combination business enterprise (CBE), and a socially and economically disadvantaged business enterprise (SEDBE).

(7) "Class of contract basis" means an entire group of contracts having a common characteristic. Examples include, but are not limited to, personal service contracts, public works contracts, leases, purchasing contracts, and contracts for specific types of goods and/or services.

(8) "Commercially useful function" means the performance of real and actual services that are integral and necessary in the discharge of any contractual endeavor, and not solely for the purpose of obtaining certification or obtaining credit for participation goal attainment.

(9) "Common industry practices" means those usages, customs, or practices which are ordinary, normal, or prevalent among businesses, trades, or industries of similar types engaged in similar work in similar situations in the community.

(10) "Conduit" means a certified business which agrees to be named as a subcontractor on a contract in which such certified business does not perform the work but, rather, the work is performed by the prime contractor, prime consultant, material supplier, purchasing contractor, or any other noncertified business.

(11) "Contingent liability" means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

(12) "Days" means calendar days. In computing any period of time described in this chapter, the day from which the period begins to run is not counted. When the last day of the period is a Saturday, Sunday, or a legal holiday, the period extends to the next day that is not a Saturday, Sunday, or legal holiday. Similarly, in circumstances where the agency is closed for all or part of the last day, the period extends to the next day on which the agency is open.

(13) "Director" means the director of the office of minority and women's business enterprises.

(14) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

(15) "Front" means a business which purports to be eligible for certification but is not in fact legitimately owned and controlled by minorities, women, socially and economically disadvantaged individuals, or a combination thereof.

(16) "Graduation" means the business is no longer certified because it is no longer a small business concern.

(17) "Immediate family member" means father, mother, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, spouse, and registered domestic partner.

(18) "Joint venture" means an association of a certified firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the certified firm is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

(19) "Liabilities" means financial obligations including, but not limited to, accounts payable, notes payable to a bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

(20) "Native Hawaiian organization" means any community service organization serving native Hawaiians in the state of Hawaii which is a not-for-profit organization chartered by the state of Hawaii, is controlled by native Hawaiians, and whose business activities will principally benefit such native Hawaiians.

(21) "Office" means the Washington state office of minority and women's business enterprises.

(22) "Pass-through" means a certified business that buys goods from a noncertified business and simply resells those goods to the state, state contractors, or other persons doing business with the state for the purpose of allowing those goods to be counted towards fulfillment of goals for participation of certified firms.

(23) "Personal net worth" means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse/domestic partner.

(24) "Small Business Administration" or "SBA" means the United States Small Business Administration.

(25) "Small business concern" means a small business concern as defined under section 3 of the Small Business Act and 13 C.F.R. Part 121 that also does not exceed the cap on average annual gross receipts specified in WAC 326-20-092.

(26) "Socially disadvantaged individual" means the following for the purposes of certification, consistent with 49 C.F.R. Sec. 26.5:

(a) A person who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

(b) Any individual who the agency finds to be a socially disadvantaged individual on a case-by-case basis, per chapter 326-20 WAC.

(c) Any individual in the following groups, members of whom are rebuttably presumed to be socially disadvantaged for the purposes of certification, consistent with 49 C.F.R. Sec. 26.5:

(i) Persons who are Asian or Pacific islander: Person whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Guam, the Republic of Palau, the Federated States of Micronesia, and the Republic of Marshall Islands, Commonwealth of the Northern Mariana Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Hong Kong, India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(ii) Persons who are black/African American: Persons having origins in any of the black racial groups of Africa;

(iii) Persons who are Hispanic/Latino: Persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iv) Persons who are Native American or Alaska native: Persons who are members or descendants of a federal or state recognized Indian tribe or Alaska native corporation;

(v) Persons who are native Hawaiian: Persons whose ancestors were natives, prior to 1778, of the area which now comprises the state of Hawaii;

(vi) Women; and

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the U.S. Small Business Administration (SBA), at such time as the SBA designation becomes effective.

(27) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.

(28) "Switch business" means a business that was previously owned and controlled by an individual(s) who is not socially and economically disadvantaged, that has made technical changes to its business structure so that it is now purportedly owned and controlled by a person(s) who is socially and economically disadvantaged, but continues to operate in substantially the same manner as it did prior to the written revisions of the business structure.

(29) "Tribally owned concern" means any small business concern at least fifty-one percent owned by an Indian tribe as defined in this section.

[Statutory Authority: RCW 39.19.030 and 39.19.120. WSR 19-13-014, § 326-02-030, filed 6/7/19, effective 7/8/19; WSR 04-08-093, § 326-02-030, filed 4/6/04, effective 5/7/04. Statutory Authority: RCW 39.19.030(7). WSR 96-24-085, § 326-02-030, filed 12/3/96, effective 1/3/97. Statutory Authority: RCW 39.19.030. WSR 94-11-116, § 326-02-030, filed 5/18/94, effective 6/18/94. Statutory Authority: RCW 39.19.030(7). WSR 92-24-107, § 326-02-030, filed 12/2/92, effective 1/2/93; WSR 92-11-007, § 326-02-030, filed 5/11/92, effective 6/11/92; WSR 89-24-047, § 326-02-030, filed 12/1/89, effective 1/1/90. Statutory Authority: Chapter 39.19 RCW. WSR 88-12-060 (Order 88-5), § 326-02-030, filed 5/31/88; WSR 88-08-031 (Order 88-4), § 326-02-030, filed 4/1/88; WSR 87-18-030 (Order 87-6), § 326-02-030, filed 8/27/87; WSR 86-17-018 (Order 86-2), § 326-02-030, filed 8/11/86; WSR 85-14-101 (Order 85-6), § 326-02-030, filed 7/2/85; WSR 84-09-002 (Order 84-5), § 326-02-030, filed 4/5/84. Statutory Authority: 1983 c 120 § 3(7). WSR 83-22-045 (Order 83-3), § 326-02-030, filed 10/28/83.]