

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2551

By: Boyd (Laura) of the House

and

Williams (Penny) of the  
Senate

AS INTRODUCED

An Act relating to state government; amending 74 O.S. 1991, Section 85.45, 85.45a, 85.45b, 85.45c, 85.45d, 85.45e, 85.45f, 85.45g and 85.45h, which relate to the Oklahoma Minority Business Enterprise Assistance Act; changing short title to the Oklahoma Minority and Disadvantaged Business Enterprise Assistance Act; clarifying and adding terms; modifying and adding definitions; amending 74 O.S. 1991, Sections 5060.20 and 5062.6, which relate to the Oklahoma Development Finance Authority; amending Section 6, Chapter 230, O.S.L. 1992 and Section 2, Chapter 259, O.S.L. 1992 (74 O.S. Supp. 1993, Sections 5060.26 and 5013.2), which relate to certain private not-for-profit corporations; amending 74 O.S. 1991, Section 5013.1, which relates to the Minority Business Development Program Fund; adding and clarifying powers and duties of the Department of Commerce; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 74 O.S. 1991, Section 85.45, is amended to read as follows:

Section 85.45 Sections ~~2~~ 85.45a through ~~10~~ 85.45h of this ~~act~~ title shall be known and may be cited as the "Oklahoma Minority and Disadvantaged Business Enterprise Assistance Act".

SECTION 2. AMENDATORY 74 O.S. 1991, Section 85.45a, is amended to read as follows:

Section 85.45a It is recognized by this state that the preservation and expansion of the American economic system of private enterprise is through free competition, but it is also recognized that the security and well-being brought about by such competition cannot be realized unless the actual and potential capacity of minority and disadvantaged business enterprises is encouraged and developed. Therefore, it is the intent of the Legislature that the state ensure that minority and disadvantaged business enterprises are not underrepresented in the area of procurement of state contracts for construction, services, equipment and goods. It is further the intent that this state provide for the aggressive solicitation of minority and disadvantaged business enterprises, provide a feasibility study on a Small Business Surety Bond Guaranty Program, provide other programs targeted for assisting minority and disadvantaged business enterprises in qualifying for state bids, and establish a percentage preference bid program for minority and disadvantaged business enterprises who desire to participate in such program.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 85.45b, is amended to read as follows:

Section 85.45b For purposes of the Oklahoma Minority and Disadvantaged Business Enterprise Assistance Act:

1. "Minority" means a person who is a lawful resident of the State of Oklahoma and who is:

- a. Black (a person having origins in any of the black racial groups of Africa),
- b. Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American descent),
- c. Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands), or
- d. American Indian and Alaskan Native (a person having origins in any of the original peoples of North America);

2. "Minority business enterprise" means a small business concern, as defined pursuant to Section 3 of the Small Business Act and implementing regulations, which is owned and controlled by one or more minorities and is authorized to do and is doing business under the laws of this state, paying all taxes duly assessed, and domiciled within this state. "Owned and controlled" means a business:

- a. which is at least fifty-one percent (51%) owned by one or more minorities or, in the case of a publicly owned business, at least fifty-one percent (51%) of all classes or types of the stock is owned by one or more minorities, and
- b. whose management and daily business operations are controlled by one or more such individuals;

3. "Office Department" means the ~~Office of Public Affairs~~ Department of Central Services; and

4. "Person" means an individual, sole proprietorship, partnership, association, or corporation;

5. "Disadvantaged business" means a business employing less than twenty-five persons of which at least fifty-one percent (51%)

of the outstanding stock is owned, regardless of minority status, by a person who is:

- a. by reason of social or economic background unable to compete in the free enterprise system due to diminished capital and credit opportunities of a quality or quantity similar to those available to others in the same business area who are not disadvantaged, and
- b. impeded from normal entry into the economic mainstream because of historical practices of discrimination based on race, color, religion, ethnic background, sex, age, handicap, national origin, or service in the Armed Forces during the Vietnam Conflict, and
- c. unable to compete effectively because of tendencies of regular financing and commercial organizations to restrict their services to established businesses, and
- d. in a state of low income; and

6. "Low income" means annual income which is eighty percent (80%) or less of the median annual income of the citizens of this state as reported by the latest estimates of the U.S. Bureau of the Census.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 85.45c, is amended to read as follows:

Section 85.45c A. For competitive bids submitted to the state pursuant to the Oklahoma Central Purchasing Act or pursuant to the Public Competitive Bidding Act of 1974 by certified minority or disadvantaged businesses, the State Purchasing Director shall prepare and implement a bid-preference program. The program shall require that a percentage be added to the price of the lowest bid and if the certified minority or disadvantaged business enterprise submits a bid that falls between the lowest bid plus the percentage, it shall receive the contract.

Provided however, in no instance shall the minority or disadvantaged business enterprise be entitled to both a minority or disadvantaged bid preference under this act and the preference for state-produced goods pursuant to Section 85.32 of this title.

B. The minority or disadvantaged business enterprise preference program shall be implemented on the following schedule:

1. For the ~~1988-1989~~ 1994-1995 fiscal year, the State Purchasing Director shall certify the percent of funds expended on state contracts which have been awarded to ~~minority~~ disadvantaged business enterprises certified pursuant to Section 7 85.45e of this ~~act~~ title. If the State Purchasing Director certifies that a minimum of ten percent (10%) of the funds expended on state contracts were expended on contracts awarded to ~~minority~~ disadvantaged business enterprises certified pursuant to Section 7 85.45e of this ~~act~~ title then the ~~minority~~ disadvantaged percentage bid preference shall be zero. If the percentage of such funds expended on ~~minority~~ disadvantaged business enterprises is less than ten percent (10%) then a five percent (5%) bid preference shall go into effect; and

2. For each following fiscal year, the State Purchasing Director shall certify the percent of funds expended on state contracts which have been awarded to minority and disadvantaged business enterprises. When the State Purchasing Director certifies that a minimum of ten percent (10%) of the funds expended on state contracts are expended on contracts awarded to minority and disadvantaged business enterprises then the percentage bid preference shall remain at that preference level for a period of one (1) year. After that one-year period, unless the minority and disadvantaged bid preference level is zero, the State Purchasing Director shall reduce by one percent (1%) each year the bid preference level unless the required percent of funds expended on state contracts awarded to minority and disadvantaged business

enterprises decreases below the ten percent (10%) minimum. At that time, the State Purchasing Director shall increase the percentage bid preference one percent (1%) each year to a maximum of five percent (5%) to attain the minimum ten percent (10%) goal of the program. Each year the State Purchasing Director may increase or decrease the bid percentage level in compliance with this section to maintain the minimum ten percent (10%) goal of the program.

C. The Department of Transportation is exempted from the provisions of the Minority and Disadvantaged Business Enterprise Assistance Act.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 85.45d, is amended to read as follows:

Section 85.45d In the event that the State Purchasing Director is unable to award a contract pursuant to the provisions of Section ~~5~~ 85.45c of this ~~act~~ title, the award may be placed pursuant to the normal competitive bid and award provisions.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 85.45e, is amended to read as follows:

Section 85.45e A. Any minority or disadvantaged business enterprise that desires to participate in the minority and disadvantaged bid preference program and to bid upon any state contract within the purview of the State Purchasing Director or any other state contract to be let by any state agency not subject to the Oklahoma Central Purchasing Act shall first apply to the State Purchasing Director for certification.

B. The State Purchasing Director shall certify a business which meets the eligibility requirement of this section to qualify as a minority or disadvantaged business enterprise. To qualify as a minority or disadvantaged business enterprise, the business shall:

1. Be a minority or disadvantaged business enterprise;

2. Submit any documentary evidence required by the rules and regulations of the ~~Office of Public Affairs~~ Department to support its status as a minority or disadvantaged business enterprise;

3. Sign an affidavit stating that it is a minority or disadvantaged business enterprise;

4. Be qualified to bid pursuant to the provisions of the Oklahoma Central Purchasing Act~~;~~ and

5. Present:

- a. an application including the entire business history of the operation,
- b. birth certificates for all minority or disadvantaged principals,
- c. if Native American, tribal registration card/certificate,
- d. current resumes on all principals, key managers and other key personnel,
- e. a current financial statement,
- f. proof of investment by principals,
- g. loan agreements,
- h. lease/rental agreement for space, equipment,
- i. evidence of latest bond,
- j. if the applicant is a sole proprietor, ~~he shall also include:~~ a copy of a bank signature card,
- k. if the applicant is a partnership, a copy of the partnership agreement ~~shall also be included,~~ and
- l. if the applicant is a corporation ~~it shall also include:~~ a articles of organization, corporation bylaws, copies of all stock certificates, minutes of the first corporate organizational meeting, bank resolution on all company accounts, and a copy of the latest U.S. corporate tax return.

C. The State Purchasing Director shall prepare and maintain a list of certified minority and disadvantaged business enterprises.

D. The purchasing director may deny certification to any minority or disadvantaged business enterprise in accordance with the provisions of ~~this act~~ the Oklahoma Minority and Disadvantaged Business Enterprise Assistance Act and the rules ~~and regulations~~ of the ~~Office of Public Affairs~~ Department. Any person adversely affected by an order of the State Purchasing Director denying certification as a minority or disadvantaged business enterprise may appeal as provided in the Administrative Procedures Act.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 85.45f, is amended to read as follows:

Section 85.45f ~~Beginning July 1, 1988, and on~~ On or before July 1 of each year, the State Purchasing Director shall submit a report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate on the status of the percentile of state funds expended on contracts awarded to minority or disadvantaged business in the preceding fiscal year and provide any report, statistic or information concerning the ~~Office of Public Affairs'~~ Department's compliance with ~~this act~~ the Oklahoma Minority and Disadvantaged Business Enterprise Assistance Act.

SECTION 8. AMENDATORY 74 O.S. 1991, Section 85.45g, is amended to read as follows:

Section 85.45g If a minority or disadvantaged business enterprise is awarded a contract by this state pursuant to the Oklahoma Minority and Disadvantaged Business Enterprise Assistance Act, said business shall not assign the rights of the contract to any other business without prior written approval of the State Purchasing Director verifying that such business is also a minority or disadvantaged business enterprise certified as such by the ~~Office of Public Affairs~~ Department. Any such assignment made without the prior written approval of the State Purchasing Director shall be

deemed unlawful pursuant to paragraph 5 of subsection A of Section ~~40~~ 85.45h of this ~~act~~ title. Such unlawful assignment shall be voidable by the ~~Office of Public Affairs~~ Department.

SECTION 9. AMENDATORY 74 O.S. 1991, Section 85.45h, is amended to read as follows:

Section 85.45h A. It shall be unlawful for a person to:

1. Knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain, certification as a minority or disadvantaged business enterprise for the purposes of ~~this act~~ the Oklahoma Minority and Disadvantaged Business Enterprise Assistance Act.

2. Knowingly and willfully make a false statement with the intent to defraud, whether by affidavit, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a minority or disadvantaged business enterprise.

3. Knowingly and willfully obstruct, impede, or attempt to obstruct or impede any state official or employee who is investigating the qualifications of a business entity which has requested certification as a minority or disadvantaged business enterprise.

4. Knowingly and willfully with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain, public monies to which the person is not entitled ~~under this act~~ pursuant to the Oklahoma Minority and Disadvantaged Business Enterprise Assistance Act.

5. Knowingly and willfully assign any contract awarded pursuant to the Oklahoma Minority and Disadvantaged Business Enterprise Assistance Act to any other business enterprise without prior written approval of the State Purchasing Director pursuant to Section ~~9~~ 85.45g of this ~~act~~ title.

B. Any person convicted of violating any provision of the Oklahoma Minority and Disadvantaged Business Enterprise Assistance Act shall be guilty of a felony, punishable by imprisonment in the State Penitentiary for not more than five (5) years, or a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such imprisonment and fine.

C. If a contractor, subcontractor, supplier, subsidiary, principal or affiliate thereof, has been found to have violated this act and that violation occurred within three (3) years of another violation of ~~this act~~ the Oklahoma Minority and Disadvantaged Business Enterprise Assistance Act, the ~~Office of Public Affairs Department~~ shall prohibit that contractor, subcontractor, supplier, subsidiary, or affiliate thereof, from entering into a state project or state contract and from further bidding to a state entity, and from being a subcontractor to a contractor for a state entity and from being a supplier to a state entity.

SECTION 10. AMENDATORY 74 O.S. 1991, Section 5060.20, is amended to read as follows:

Section 5060.20 A. The Center may use the Technology Transfer Account to carry out the purposes of this section.

B. The Oklahoma Center for the Advancement of Science and Technology shall establish a clearinghouse to provide technology transfer and technical referral services and may charge reasonable user fees to recover the costs of providing such services. The Center may fund institutions of higher education to establish technical information data bases and industrial liaison offices which are easily accessible by both private and public sector organizations.

C. The Center shall provide to private enterprises and individuals, services which include, but are not limited to:

1. Disseminating research and technical information;

2. Referring clients to researchers or laboratories for the purpose of testing and evaluating new products, processes or innovations;

3. Assisting persons developing innovations or new technology in locating enterprises or entrepreneurs that may be interested in applying such innovations or new technologies; and

4. Providing managerial assistance to enterprises requesting such assistance, but particularly to those small enterprises of special importance to the Oklahoma economy.

D. The Center shall encourage business enterprises to use such technology transfer and technical support services as provided by institutions of higher education and especially the state's Small Business Development Centers.

E. The Center shall assist minority or disadvantaged businesses in obtaining investments or loans or other means of financial assistance. The terms and conditions of such loans or financial assistance, including the charges for interest and other services, will be consistent with the provisions of this act. The Center shall solicit proposed minority or disadvantaged business ventures for review and analysis.

SECTION 11. AMENDATORY 74 O.S. 1991, Section 5062.6, is amended to read as follows:

Section 5062.6 A. Upon certification by the Governor of a public trust as qualifying to become the Oklahoma Development Finance Authority, the board of trustees of such trust shall become the governing board of the Oklahoma Development Finance Authority with the addition of two ~~(2)~~ other persons. One person shall be the Director of the Department of Commerce who shall serve ex officio and who shall be a voting member of the board of the Authority. The Governor shall appoint one (1) person, qualified by outstanding knowledge, leadership and experience in the field of finance, for a term of office of two (2) years subject to the advice and consent of

the Senate. Any vacancy in a position upon the board occupied by a member of the qualifying public trust or the gubernatorial appointee shall be filled by appointment of the Governor subject to the advice and consent of the Senate. Any position upon the board filled by appointment of the Governor shall be for a term equal to the term of office of the member whose term has expired. Appointments shall be made on the basis of outstanding knowledge, leadership and experience in the respective field of the appointee. If a vacancy occurs when the Senate is not in session, the Governor may appoint a member who shall exercise full powers until confirmation or rejection of the appointment by the Senate. Each member appointed by the Governor may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. The governing and administrative powers of the Oklahoma Development Finance Authority shall be vested in the governing board as provided by this section.

B. Each appointive member may receive reimbursement for expenses pursuant to the provisions of the State Travel Reimbursement Act, Section 500.1 et seq. of this title. In addition, each appointive member shall receive a monthly stipend of Three Hundred Dollars (\$300.00) if, during the month, the member attended a meeting of the board of directors at which a quorum was present. Provided, a member who is also to receive a stipend for attending, during said month, a board meeting of the Oklahoma Industrial Finance Authority shall not receive a stipend pursuant to this subsection for said month except to the extent that payment to the member may be divided between the two boards in proportion to the service rendered by the member to each board.

C. Members shall annually elect from among the membership a chairman, vice-chairman, secretary and treasurer, and may elect an assistant secretary or assistant secretaries who need not be members of the board. Four members of the board shall constitute a quorum

and the affirmative vote of the majority of members present at a meeting of the board shall be necessary and sufficient for any action taken by the board, except that the affirmative vote of at least four members shall be required for the approval of any resolution authorizing the issuance of any bonds or approving any loan transaction pursuant to Section 5062.1 et seq. of this title.

D. No vacancy in the membership of the board shall impair the right of a quorum to exercise all rights and perform all the duties of the board. Any action taken by the board may be authorized by resolution at any regular, special, or emergency meeting and shall take effect upon the date the chairman or vice-chairman certifies the action of the Authority by affixing his signature to the resolution unless some other date is otherwise provided in the resolution.

E. The board shall appoint and employ a president. The board shall establish criteria for selecting the president taking into consideration national standards for similar positions in similar institutions in other states. The search for a president shall be conducted pursuant to the criteria so established. The president shall employ and terminate such other officers and employees as designated by the board. The board may delegate to its president, its members and/or officers of the Authority such duties as it deems necessary or convenient to carry out the purposes of Section 5062.2 et seq. of this act title.

F. Except as otherwise provided by law, no part of the funds of the Authority shall inure to the benefit of, or be distributed to its employees, officers, or board of directors, except that the Authority shall be authorized and empowered to pay its employees and agents reasonable compensation and benefits.

G. The meetings of the board of directors of the Oklahoma Development Finance Authority shall be subject to the Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes, and

the Open Records Act, ~~Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes.~~ Any information submitted to or compiled by the Oklahoma Development Finance Authority with respect to the marketing plans, financial statements, trade secrets or any other commercially sensitive information of persons, firms, associations, partnerships, agencies, corporations or other entities shall be confidential, except to the extent that the person or entity which provided such information or which is the subject of such information consents to disclosure. Executive sessions may be held to discuss such materials if deemed necessary by the board of directors.

H. The Authority shall assist minority and disadvantaged businesses in obtaining financial assistance. The terms and conditions of loans or other means of financial assistance, including the charges for interest and other services, will be consistent with the provisions of this act. The Authority shall solicit proposed minority and disadvantaged business ventures for review and analysis.

I. The Authority shall adopt, publish and submit by January 1 of each year to Oklahoma Futures, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives, appropriate administrative policies, including but not limited to policies governing the classification, employment, promotion, suspension, disciplinary action or dismissal of Authority employees and reimbursement of employees. All actions governed by said administrative policies shall be examined annually in the independent audit required by this act. The Authority shall not be subject to state laws regulating the classification, employment, promotion, suspension, disciplinary action or dismissal of state employees. Except as otherwise provided by this act, the Oklahoma Development Finance Authority shall be subject to the provisions of the Oklahoma Central Purchasing Act, ~~Section 85.1 et seq. of this title.~~ The Oklahoma Development Finance Authority shall be subject

to the provisions of ~~law governing administrative procedures pursuant to Title 75 of the Oklahoma Statutes~~ Article I of the Administrative Procedures Act.

J. If a member of the board of directors, officer, agent or employee of the Oklahoma Development Finance Authority has any direct or any indirect interest in any approval, contract or agreement upon which the member, officer, agent or employee may be called upon to act or vote, the board member, officer, agent or employee shall disclose the same to the secretary of the Authority prior to the taking of final action by the Authority concerning such contract or agreement and shall so disclose the nature and extent of such interest and his or her acquisition thereof, which disclosure shall be publicly acknowledged by the Authority and entered upon the minutes of the Authority. If a board member, officer, agent or employee holds such an interest, he or she shall refrain from any further official involvement in regard to such contract or agreement, from voting on any matter pertaining to such contract or agreement, and from communicating with other board members, officers, agents or employees concerning said contract or agreement. Employees of the Oklahoma Development Finance Authority shall be subject to the provisions of Section 4241 of this title. Notwithstanding any other provision of law, any contract or agreement entered into in conformity with this subsection shall not be void or invalid by reason of the interest described in this subsection, nor shall any person so disclosing the interest and refraining from further official involvement as provided for in this subsection be guilty of an offense, be removed from office, or be subject to any other penalty on account of such interest. Provided, any approval, contract or agreement made in violation of this section shall give rise to no action against the Authority.

Indirect interest shall include pecuniary or competitive advantage which exists or could foreseeably accrue as a result of the act or forbearance of the Authority.

SECTION 12. AMENDATORY Section 6, Chapter 230, O.S.L. 1992 (74 O.S. Supp. 1993, Section 5060.26), is amended to read as follows:

Section 5060.26 A. A private, not-for-profit corporation may be organized pursuant to the provisions of Title 18 of the Oklahoma Statutes and the provisions of this act to develop the Industrial Extension System in Oklahoma, with a special emphasis on minority or disadvantaged business enterprises. Such corporation, upon certification by Oklahoma Futures, shall be known as and may exercise all of the powers of OAME.

B. In addition to the provisions and requirements of Title 18 of the Oklahoma Statutes, the certificate of incorporation and the bylaws of OAME must be certified by Oklahoma Futures and the certificate of incorporation shall:

1. Designate the name of the corporation as the Oklahoma Alliance for Manufacturing Excellence, Inc.;

2. Provide that the exclusive purposes of OAME are public purposes to assist small and medium-sized manufacturing firms, with a special emphasis on minority or disadvantaged business enterprises, to gain the ability, through education, technology transfer, and otherwise, to compete successfully at progressively higher levels of value-added in the national and international economy;

3. Provide for the following three classes of membership in OAME which shall have representation on the Board of Directors of OAME:

- a. one class composed of small and medium-sized manufacturing firms located in Oklahoma, and the

certificate of incorporation shall provide for the qualifications for membership in such class,

- b. one class composed of large corporations, and the certificate of incorporation shall provide for the qualifications for membership in such class, and
- c. one class composed of state entities, including, but not limited to, the Oklahoma Center for the Advancement of Science and Technology, the Oklahoma Department of Commerce, the State Department of Vocational and Technical Education, and the Oklahoma State Regents for Higher Education;

4. Provide for classes of associate membership which shall not have representation on the Board of Directors of OAME, except as provided in paragraph 5 of this subsection;

5. Provide that the Board of Directors of OAME shall consist of five representatives of members who shall be individuals elected at the first annual meeting of OAME by members of the class composed of small and medium-sized manufacturing firms, and four representatives of members who shall be individuals elected at the first annual meeting of OAME by members of the class composed of large corporations. The Board of Directors also shall include the President of the Oklahoma Center for the Advancement of Science and Technology, the Executive Director of the Oklahoma Department of Commerce, the Director of the State Department of Vocational and Technical Education and the Chancellor of Higher Education as ex officio members. The bylaws of OAME may provide for designees who may serve in the place of any of the directors and the terms under which any such designation will be made. The Board of Directors shall have the power to elect, from time to time, persons to serve as directors who are associate members or are not affiliated with any entity or firm which qualifies for membership in OAME, provided

that no more than three ~~(3)~~ of such persons shall serve on the Board of Directors at any time;

6. Have the authority to set membership dues in an amount to be determined by the Board of Directors. No participating state entity shall pay membership dues;

7. Provide for all powers necessary or appropriate to carry out and effectuate its corporate purposes, including, but not limited to, the following:

- a. to maintain an office at such place or places as it may designate,
- b. to make and execute contracts with any individual, corporation, association or any other entity and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this act,
- c. to receive funds from any source to carry out the purposes of this act, including, but not limited to, gifts or grants from any department, agency or instrumentality of the United States or of the state for any purpose consistent with the provisions of this act,
- d. to acquire or sell, convey, lease, exchange, transfer or otherwise dispose of its property or any interest therein,
- e. to develop plans and policies to assist small and medium-sized manufacturing companies in Oklahoma,
- f. to enter into contracts to provide assistance to small and medium-sized manufacturing companies, including, but not limited to, the following categories:
  - (1) technology,
  - (2) human resources development,
  - (3) market planning,

- (4) finance, and
- (5) inter-firm collaboration,
- g. to assist other organizations providing general business assistance to small and medium-sized manufacturing enterprises,
- h. to establish manufacturing quality and standards certification programs, setting minimum standards and issuing certification to companies meeting such standards,
- i. to develop and distribute information about manufacturing modernization and assistance that is available to support efforts to improve the abilities of small and medium-sized firms to produce and market higher value-added products,
- j. to establish a system to evaluate the effectiveness and efficiency of services provided to small and medium-sized manufacturing firms,
- k. to establish and operate, directly or under contract, an information system designed to access resources that will assist the firms to become more productive,
- l. establish a training program for individuals working on behalf of small and medium-sized manufacturing firms, and
- m. to establish special educational and informational programs for its members.

SECTION 13. AMENDATORY Section 2, Chapter 259, O.S.L. 1992 (74 O.S. Supp. 1993, Section 5013.2), is amended to read as follows:

Section 5013.2 A. The Oklahoma Department of Commerce shall expend so much as appropriated to the Minority and Disadvantaged Business Development Program Fund as may be necessary to accomplish contractual responsibilities for job creation and enhancement and

business creation and expansion of Oklahoma minority-owned or disadvantaged-owned businesses. The Department may contract with organizations which support minority and disadvantaged businesses for these purposes only after:

1. An applicant organization has submitted an approved business plan;

2. An applicant organization has demonstrated through education and experience capabilities of offering management tools and technical assistance to minority-owned or disadvantaged-owned businesses;

3. An applicant organization has demonstrated that it can provide financial capacity and responsibility to manage a program to aid minority-owned or disadvantaged-owned businesses in the manner set out herein;

4. A panel of peer reviewers has received applications and recommended such applications for contracting;

5. The Department has given due consideration to those applicants that demonstrate an ability to attract matching funding from other governmental or private or charitable organizations;

6. The Department has given due consideration to those applicants that demonstrate an ability to aid minority-owned or disadvantaged-owned businesses located in communities with a population of less than ten thousand (10,000); and

7. The Department has developed, adopted and published additional criteria, upon receipt of advice and comment from qualified peer reviewers.

B. Any contract entered into pursuant to this section shall require quarterly reports of activities and expenditures upon forms prescribed by the Department. Said quarterly reports shall be reviewed by Oklahoma Futures. The Department or Oklahoma Futures may disallow expenditures and withhold funds accordingly, if reports reflect failure to comply with approved applications. All

contractors shall submit annual audits as required by the Department of Commerce which may be paid from allocated, appropriated funds. The Department may utilize an amount not to exceed twenty percent (20%) of appropriated funds for administration of the minority-owned or disadvantaged-owned business program.

C. Contracts entered into by the Oklahoma Department of Commerce for the purpose of implementing the Minority and Disadvantaged Business Development Program shall be exempt from the requirements of the Oklahoma Central Purchasing Act.

SECTION 14. AMENDATORY 74 O.S. 1991, Section 5013.1, is amended to read as follows:

Section 5013.1 There is hereby created in the State Treasury a revolving fund for the Oklahoma Department of Commerce to be designated the "Minority and Disadvantaged Business Development Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. The fund shall consist of all monies authorized by law for deposit in such fund including, but not limited to appropriations, gifts, grants, private donations, fee revenues and funds by governmental entities authorized to provide funding for the purposes authorized for the use of the fund. Monies deposited or apportioned to the credit of the fund may be expended for the purposes of job creation and enhancement and business creation and expansion of Oklahoma ~~minority-owned~~ minority-owned and disadvantaged-owned businesses pursuant to law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Commerce for purposes authorized by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 15. This act shall become effective July 1, 1994.

SECTION 16. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-7649

KSM