

Construction Lawyer
Spring, 2009

Disadvantaged Businesses

*40 WHERE WE ARE NOW WITH WOMEN AND MINORITY BUSINESS ENTERPRISE PROGRAMS

[Jennifer Evans Morris](#), Andrea L. Murdock, [Julia Luyster](#) [FN1]

Copyright © 2009 by American Bar Association; Jennifer Evans Morris, Andrea L. Murdock, Julia Luyster

Women and minority business enterprise programs (W/MBEs) [FN1] are being used in new ways in both the public and private sectors to encourage business and development of women and minority-owned businesses. In the late 1980s and early 1990s, a number of states passed laws and drafted administrative regulations creating affirmative action programs designed to level the playing field for W/MBEs in construction projects. Although these public programs were initially mandatory governmental programs, most states have moved to voluntary programs as a result of affirmative action legal challenges. Private programs are also becoming more prevalent.

Companies implementing and benefiting from these programs face constitutional challenges, criminal penalties, and logistical concerns. This article addresses constitutional challenges to W/MBE programs, discusses recent changes in legislation for fraudulent certifications and improper use of programs, and discusses practical and innovative solutions used by some companies to go beyond the numbers.

The Constitutionality of Women and Minority Business Enterprise Programs

All state, municipal, and federal racial affirmative action programs, when challenged on constitutional grounds, are subject to the “strict scrutiny” standard of review. [FN2] A W/MBE program can withstand a challenge only if it is narrowly tailored to serve a compelling state interest. [FN3] Programs have been found to be narrowly tailored when the state has acted to remedy identified present or past discrimination in which it engaged or was a “passive participant.” Race-based preferences cannot be justified by reference to past “societal” discrimination in which the municipality played no material role. The remedy must be tailored to the discrimination identified.

The Strict Standard of Review (Croson and Adarand)

One of the seminal cases addressing W/MBE programs was *City of Richmond v. J.A. Croson Company*, decided in 1989, which dealt with a City of Richmond Minority Business Utilization Plan (Plan) that required general contractors that were awarded city construction contracts to subcontract at least thirty percent of the dollar amount of each contract to MBEs. [FN4] Like most current W/MBE programs, the Plan defined an MBE as a business that was at least fifty-one percent owned and controlled by black, Spanish-speaking, Oriental, Indian, Eskimo, or Aleut citizens. The Plan provided for a waiver of the thirty percent set-aside, but required sufficient proof that qualified MBEs were unavailable or unwilling to participate in order to grant the waiver. The Plan did not apply to city contracts awarded to minority-owned general contractors. The Plan declared that it was remedial in nature and enacted

for the purpose of promoting wider participation by MBEs in the construction of public projects. [\[FN5\]](#)

With the Plan in place, the City issued an invitation to bid on a project for the provision and installation of plumbing fixtures at the city jail. The bid documents specified that the products of two manufacturers were to be utilized in the project. A representative of Croson, a general contractor, contacted several MBEs as potential suppliers. A single MBE submitted a supplier bid, but that MBE was unable to obtain credit approval--a frequent problem for W/MBEs that is addressed later in this article. Croson was left without any MBEs to satisfy the Plan's set-aside requirements. Despite Croson being the sole bidder on the contract, the City declined to waive the set-aside and re-bid the project. Croson sued, alleging the Plan was unconstitutional under the Fourteenth Amendment's Equal Protection Clause.

*41 The district court upheld the Plan, and the Fourth Circuit Court of Appeals affirmed, applying a test derived from a 1980 U.S. Supreme Court decision, *Fullilove v. Klutznick*, [\[FN6\]](#) which deferred to the legislature's (in that case, Congress's) findings of past societal discrimination. The U.S. Supreme Court granted certiorari, then vacated and remanded for further consideration in light of its intervening decision in *Wygant v. Jackson Board of Education*, [\[FN7\]](#) which applied a strict scrutiny standard to MBE programs. On remand, the court of appeals held that the Plan violated both prongs of the strict scrutiny standard of review. The U.S. Supreme Court affirmed, holding that the Plan was not justified by a compelling government interest, and the thirty percent set-aside was not narrowly tailored to accomplish a remedial purpose. [\[FN8\]](#)

Fifteen years later, in *Adarand Constructors, Inc. v. Peña*, the U.S. Supreme Court again addressed the constitutionality of W/MBE programs. [\[FN9\]](#) Adarand submitted a bid on a subcontract to work on the guardrail portion of a federal highway construction contract. The general contractor awarded the subcontract to a company that was certified as a small, disadvantaged business but was not the lowest bidder. Adarand, the lowest bidder, was not a certified minority-owned or woman-owned business, and it filed suit against the federal officials, claiming that the race-based presumptions used in the subcontractor compensation clause violated the equal protection component of the Fifth Amendment's Due Process Clause. The district court granted the federal government summary judgment. In affirming, the court of appeals assessed the constitutionality of the federal race-based action under a more lenient standard resembling intermediate scrutiny, which it determined was required by *Fullilove* [\[FN10\]](#) and *Metro Broadcasting, Inc. v. FCC*. [\[FN11\]](#)

The U.S. Supreme Court granted certiorari and held that all racial classifications, imposed by any federal, state, or local governmental actor must be analyzed by the reviewing court under a strict scrutiny standard of review. [\[FN12\]](#) The Court remanded for determination as to whether the challenged program satisfied the strict scrutiny standard of review, reaffirming that strict scrutiny remained the correct standard.

Life in the Lower Courts After Croson and Adarand

The U.S. Supreme Court's holdings in *Croson* and *Adarand* were later applied by lower courts that were faced with constitutional challenges to W/MBE programs. For example, in *Rothe Development Corp. v. U.S. Department of Defense*, an Air Force base issued a solicitation for competitive bids on a combined contract and announced that, unlike predecessor contracts, the proposed contract would be let pursuant to a 1207 program. [\[FN13\]](#) Section 1207 of the National Defense Authorization Act of 1987 (Program) permits the U.S. Department of Defense to increase the bid of a nonminority-owned firm by up to ten percent via a mechanism called a "price-evaluation" adjustment.

Five contractors submitted bids. Two bidders were socially and economically disadvantaged. Rothe Development Corporation, which was not socially and economically disadvantaged, was the lowest bidder at \$5.57 million. ICT, which was socially and economically disadvantaged, and thus could participate in the Program, bid \$5.75 mil-

lion. Through application of the price-evaluation adjustment, Rothe's bid was increased to \$6.1 million for purposes of the bid selection. The Air Force awarded the contract to ICT, the “fictionally” lowest bidder. [\[FN14\]](#)

Rothe sued the Department of Defense and the U.S. Department of the Air Force, challenging the constitutionality of the Program both as enacted and as applied under the equal protection component of the Fifth Amendment's Due Process Clause. The District Court for the Western District of Texas granted summary judgment for the government. The Federal Circuit Court of Appeals vacated and remanded.

The Federal Circuit held that (1) the strict scrutiny standard applies to equal protection challenges to both state/municipal racial classifications and federal racial classifications enacted under Congress's Article I power; (2) the district court improperly applied the deferential standard, rather than the strict scrutiny standard, in reviewing the equal protection challenge; and (3) the district court impermissibly relied on postenactment evidence to determine whether a strong basis in evidence existed at the time of the statute's reauthorization to indicate that the program was remedial and constitutional. [\[FN15\]](#) Because the district court failed to analyze the constitutionality of the Program under the strict scrutiny analysis required by the Supreme Court in *Croson* and *Adarand*, the Federal Circuit vacated the district court's judgment and remanded for the requisite findings to be made. [\[FN16\]](#)

In *Concrete Works of Colorado, Inc. v. City and County of Denver, Colorado*, the Tenth Circuit examined a city ordinance that set annual goals for the participation of W/MBEs in city contracting. [\[FN17\]](#) The director of the Mayor's Office of Contract Compliance was then required to set contract-specific goals for each covered contract. A prime contractor whose bid did not meet the goals would be disqualified unless the prime contractor could show that it made a “good-faith effort” to do so. The good faith effort required satisfaction of ten specific steps prescribed in the ordinance.

*42 To qualify as an MBE under the 1990 ordinance, a firm was required to pass four threshold requirements, a fifty-one percent minority-ownership test, and a minority-control test. One of the threshold requirements was certification (1) that the company had been a victim of past discrimination or (2) that it was in the city construction industry before June 1, 1990 (subsequently changed to March 31, 1996). In the latter case, the company was presumed to have been a victim of discrimination.

The trial court found no evidence proving the existence of discrimination and ruled that the ordinance was unconstitutional. The Tenth Circuit found error, stating that the standard requires strong evidence of past discrimination, not proof of past discrimination. Citing *United States v. Virginia*, [\[FN18\]](#) the Tenth Circuit also acknowledged different standards for race- and gender-based programs. Race-based programs must survive the strict scrutiny test following *Adarand* and must serve a compelling state interest. Gender-based programs, however, only need survive intermediate scrutiny, but the government must establish an exceedingly persuasive justification for such measures. [\[FN19\]](#)

In 2003, the U.S. Supreme Court denied *Concrete Works'* petition for certiorari. However, Justices Scalia and Rehnquist authored a dissent expressing concern that the Court's refusal to hear the Tenth Circuit's decision would invite speculation on the validity of *Croson* and whether it was effectively overruled. Of particular interest in the pointed dissent was their belief that the Tenth Circuit ignored *Croson's* requirements that the *government* prove (not merely come forward with strong evidence in support of an inference) that it is remedying discrimination. [\[FN20\]](#)

In 2003, the U.S. Supreme Court issued a decision in *Gratz v. Bollinger* lending support to the position that the government bears the burden to show that the use of race is narrowly tailored to further a compelling governmental interest. [\[FN21\]](#) The Sixth Circuit, following *Croson* and *Adarand*, has since held that the party defending the remedy bears the initial burden of demonstrating a “strong basis in evidence”--also referred to as the “convincing evi-

dence standard”--that a compelling government interest justifies the remedy. [FN22] The Eleventh Circuit, also following *Adarand* and *Croson*, has held that the proponent of a racial or ethnic classification bears the burden of proving that it satisfies the strict scrutiny standard. [FN23]

W/MBEs Gone Awry--Penalties for Fraudulent Certification and Other Violations

Having briefly reviewed the rules concerning the constitutionality of W/MBE programs, this article now turns to other, recent developments in W/MBE law. One interesting development in W/MBE law is in the area of legislative penalties for fraudulent certification and wrongful participation in W/MBE programs.

W/MBE programs are created on a state-by-state basis, and some states have elected to have no such programs. For the states that do have W/MBE programs, the specificity of the laws and regulations governing W/MBE relationships varies greatly. Although some states rely on general statutory causes of action to punish W/MBE wrongdoers, [FN24] a number of states have decided to include specific penalties for violations of W/MBE provisions within their own W/MBE laws and regulations.

Because most W/MBE programs are goal-based and do not impose a baseline for minority or woman involvement in a project, there are few ramifications for public agencies/owners within the W/MBE laws and regulations. There are, however, a range of penalties that may be imposed on contractors and W/MBEs who violate W/MBE laws and regulations. The two most common bases for punishment are fraudulent certification and failure to comply with the W/MBE utilization plan set forth in the contractor's bid. The following is a brief overview of some of the penalties states have included within their W/MBE laws and regulations.

Prospective and Restorative Penalties

For the states that provide for certification of W/MBEs, the simplest and least serious penalty is decertification. The process by which a W/MBE is decertified typically includes the right to a hearing where the W/MBE can argue against the decertification. [FN25] If the W/MBE is decertified, states sometimes provide for a period of time during which the W/MBE cannot be recertified, generally ranging from ninety days to as long as five years. [FN26]

States also punish persons and businesses violating W/MBE laws and regulations by barring them from bidding on or participating in public contracts for a period of time. Some states focus their punishments on fraudulent certification of W/MBEs. California prohibits any person or firm who commits fraud related to certification from bidding on or participating in any state contract or project for a period of thirty days to one year. [FN27] For each additional or subsequent violation, the period of suspension is extended for up to three years. [FN28] In Oregon, a contractor that has been fraudulently certified may be barred from bidding on and participating in public contracts for up to ninety days for the first violation, up to one year for the second violation, and up to five years for the third violation. [FN29] Missouri addresses the other side of the coin, punishing the contractors employing W/MBEs. A Missouri contractor that fails to meet or maintain the percentage goals for W/MBE participation, and has no satisfactory explanation for the failure, may be declared ineligible to participate in any state contracts for up to *43 six months. [FN30] Texas has a similar law, barring a contractor that fails to implement its W/MBE plan in good faith from further contracting opportunities with public agencies. [FN31] Other states have drafted laws and regulations that apply equally to W/MBEs and the contractors employing them. Connecticut, for example, bars contractors and subcontractors that do not comply with the W/MBE laws from participating in further contracts with state agencies for up to two years from the date of the finding of noncompliance. [FN32] In Georgia, if a contractor or supplier violates the Georgia W/MBE laws more than once in a three-year period, the contractor or supplier is forever barred from bidding on a state project, entering into a state contract, or being a subcontractor for or supplier to a state entity. [FN33]

In addition to prospective penalties, such as decertification or prohibition from participation in state contracts, some states also provide for remedial or restorative penalties. For example, a person or business violating any W/MBE statute or rule in Illinois may face termination of its contract with the state and a penalty up to the amount of the profit acquired as a result of the violation. [\[FN34\]](#) Oregon statutes provide that for each act of fraud relating to W/MBE certification, a public contracting agency may withhold payment, suspend or terminate the contract, and impose on any person a civil penalty not to exceed ten percent of the contract price or \$5,000, whichever is less, for each act of fraud relating to W/MBE certification. [\[FN35\]](#) Rhode Island and Washington have similar laws. [\[FN36\]](#)

Criminal Penalties

A handful of states take their W/MBE sanctions a step further, imposing criminal penalties for violations of W/MBE provisions. For example, a person who fraudulently obtains or retains certification as a W/MBE in Virginia is guilty of a Class 1 misdemeanor, punishable by imprisonment of up to one year and a fine of up to \$2,500. [\[FN37\]](#) In Texas, a person applying as a W/MBE, who knows he or she is not qualified to do so, is guilty of a third-degree felony, subject to imprisonment of two to ten years and a fine of up to \$10,000. [\[FN38\]](#) Indiana provides that falsely representing an entity as a W/MBE to obtain certification or to qualify as an eligible bidder is a Class D felony, punishable by imprisonment of six months to three years and a fine of up to \$10,000. [\[FN39\]](#) And, although California does not imprison persons who violate W/MBE laws and regulations, its monetary penalties are perhaps the most serious. In California, a person who commits W/MBE fraud is guilty of a misdemeanor and is liable for a penalty of up to \$5,000 for the first violation and up to \$20,000 for each additional or subsequent violation. [\[FN40\]](#) If that person established, helped establish, or exercised control over a firm found to have committed W/MBE fraud, the violation is still a misdemeanor, but the penalties increase to up to \$50,000 for the first violation and up to \$200,000 for each additional or subsequent violation. [\[FN41\]](#)

Although participation in a W/MBE program is voluntary, the rules are mandatory for those participating in such programs and should not be taken lightly. The benefits of working within a W/MBE framework come with serious implications for violations of W/MBE provisions. Participation in W/MBE programs can also prove to be difficult due to practical challenges.

Innovative Solutions to Traditional Barriers--More than Just Numbers

Notwithstanding the many constitutional W/MBE programs now in place, women-and minority-owned businesses that manage to avoid violating the W/MBE laws still face a number of challenges that can be insurmountable. For example, W/MBEs typically have more capital limitations. New W/MBEs have less experience in the industry and consequently can lack the type of relationships that make projects work most efficiently. A recent trend sees both public and private entities pushing beyond simply having percentage requirements, by addressing these challenges to make W/MBE programs more successful.

Financial Solutions

A successful W/MBE project will include creative financial solutions. For example, pay-when-paid clauses are an impediment to a W/MBE participant because W/MBEs often do not have the capital reserves to carry on with business while they wait for owners to pay the general contractors. Owners and general contractors can negotiate ahead of time to ensure that W/MBEs are paid when certain benchmarks are met, including when the W/MBE's work is substantially complete, rather than waiting until the entire project is substantially complete. Additionally, owners will agree to pay contractors electronically on a monthly basis so that W/MBEs, and other subcontractors, are paid more timely. A successful program also might require contractors to pay W/MBEs within a certain number of days of payment to the contractors. Owners also might assist W/MBEs in obtaining low-interest financing so that

the W/MBE has sufficient capital to survive a long project. Regardless of the detail, addressing financing concerns from the beginning will go a long way to ensuring a successful program.

Mentoring/Training

Successful programs also may include mentoring and training initiatives for W/MBEs. For example, as Renee C. *44 Benjamin, general counsel for the Metropolitan Pier and Exposition Authority (MPEA) in Chicago, discussed at the recent Forum on the Construction Industry 2008 Fall Meeting, some owners, including the MPEA, assign protégé/mentor relationships, allowing a W/MBE the opportunity to benefit from a more experienced company that has had success with the owner. This type of program typically results in a more educated and productive W/MBE and also potentially saves the owner or contractor time it would have spent addressing questions and concerns better addressed by a more experienced mentor. Programs such as this not only provide successful W/MBEs an opportunity to assist new businesses, but also can serve to build on an already successful relationship with an owner or contractor.

One major general contractor has taken this concept a step further, developing a training program for contractors and subcontractors. The Turner School of Construction Management, started in 1969, provides practical advice and training to small businesses on how to survive. Every year a few of these graduating businesses are selected for Turner Construction Company projects. Hilton Smith, Senior Vice President for Corporate and Community Affairs at Turner Construction Company, described at the Forum's Fall Meeting that this program fosters a growing number of available and qualified W/MBEs, and also gives Turner Construction Company comfort in knowing that the W/MBE firms they select understand what is required for a project run by that company.

Community Outreach

Successful W/MBE programs do not stop at using traditional construction companies when striving to reach the set-aside goals. Success also can be achieved by hiring local employees, selecting local women- and minority-owned companies to provide supplies, including cars and trucks, for the project and selecting local women- and minority-owned professional services companies. Even women and minority attorneys can play a part in satisfying the set-aside goals. Particularly when a large and time-sensitive project is involved, this type of creative thinking and the entire community's investment in the project will serve to benefit the overall project.

Implementing a W/MBE Program

Whether tackling constitutional concerns, avoiding jail time, or finding innovative solutions to traditional impediments, owners, contractors, and subcontractors face difficult decisions and challenging issues when considering implementing or participating in a W/MBE program. Addressing these issues at the beginning of a project, however, will ensure increased communication and a higher likelihood that all involved will benefit from a W/MBE program.

[\[FN1\]](#). *Jennifer Evans Morris is a partner at Carrington Coleman in Dallas, Texas. Andrea L. Murdock is a shareholder of Halloin & Murdock, S.C., in Milwaukee, Wisconsin. Julia Luyster is appellate counsel at David J. Valdini & Associates, P.A., in Fort Lauderdale, Florida.*

[\[FN1\]](#). These types of entities also are sometimes referred to as disadvantaged business enterprises (DBEs), minority business enterprises (MBEs), female-owned business enterprises (FBEs), or targeted special businesses (TSBs). For simplicity, all such programs will be referred to in this article as W/MBEs.

[\[FN2\]](#). [City of Richmond v. J.A. Croson Co., 488 U.S. 469 \(1989\)](#); [Rothe Dev. Corp. v. U.S. Dep't of Def., 262 F.3d](#)

[1306 \(Fed. Cir. 2001\)](#). To be valid, a city's minority business utilization set-aside plan must not violate the Equal Protection Clause of the Fourteenth Amendment. [Croson, 488 U.S. at 469](#).

[FN3]. [Croson, 488 U.S. at 469; Rothe Dev. Corp., 262 F.3d 1306](#).

[FN4]. [488 U.S. at 477](#).

[FN5]. [Id. at 479-80](#).

[FN6]. [448 U.S. 448 \(1980\)](#).

[FN7]. [476 U.S. 267 \(1986\)](#).

[FN8]. [Croson, 448 U.S. at 508](#).

[FN9]. [515 U.S. 200 \(1995\)](#).

[FN10]. [448 U.S. 448](#).

[FN11]. [497 U.S. 547 \(1990\)](#).

[FN12]. [Adarand, 515 U.S. at 224](#) (overruling [Metro Broad., 497 U.S. at 547](#)).

[FN13]. [262 F.3d 1306 \(Fed. Cir. 2001\)](#).

[FN14]. [Id. at 1315](#).

[FN15]. [Id. at 1324](#).

[FN16]. [Id. at 1332](#).

[FN17]. [321 F.3d 950 \(10th Cir.\)](#), *cert. denied*, [540 U.S. 1027 \(2003\)](#).

[FN18]. [518 U.S. 515, 524 \(1996\)](#).

[FN19]. [Concrete Works, 321 F.3d at 959](#).

[FN20]. [Concrete Works of Colorado, Inc. v. City and County of Denver, Colorado, 540 U.S. 1027 \(2003\)](#), *pet. for cert. denied* (Scalia, J., dissenting).

[FN21]. [539 U.S. 244 \(2003\)](#).

[FN22]. [Rutherford v. City of Cleveland, 179 Fed. App'x 366 \(6th Cir. 2006\)](#).

[FN23]. [Bass v. Bd. of County Comm'rs, 256 F.3d 1095, 1116 \(11th Cir. 2001\)](#); [Johnson v. Bd. of Regents of the](#)

[Univ. of Ga., 263 F.3d 1234, 1243 \(11th Cir. 2001\).](#)

[FN24]. Some states punish fraud under the federal False Claims Act, codified at [18 U.S.C. § 1001](#), which provides for a fine and imprisonment of up to five years.

[FN25]. *See, e.g.*, [ILL. ADMIN. CODE tit. 44, § 10.71 \(2007\)](#); [IOWA ADMIN. CODE r. 481-25.10\(714\), 481-25.11\(17A\) \(2007\)](#); [MO. CODE REGS. ANN. tit.1, § 10-17.040\(5\), \(7\) \(2006\)](#); [N.Y. COMP. CODES R. & REGS. tit. 5, § 144.8 \(2008\)](#); [OHIO ADMIN. CODE 123:2-16-06, 123:2-16-07 \(2004\)](#), OREGON REV. STAT. ANN. § 200.075(2) (West 2008); OREGON ADMIN. R. 445-050-0070, 445-050-0075 (2000); R.I. SEC'Y OF STATE ERLID NO. 732(8.00); 34 TEX. ADMIN. CODE § 20.20 (2007); [7 VA. ADMIN. CODE §§ 10-20-170 through 10-20-220 \(1992\)](#); WIS. ADMIN. CODE COMM. §§ 105.16-105.19, 104.60-104.75 (2008).

[FN26]. *See, e.g.*, [ILL. ADMIN. CODE tit. 44, § 10.71](#) (one year); [N.Y. COMP. CODES R. & REGS. tit. 5 § 144.8\(d\)](#) (two years); OREGON REV. STAT. ANN. § 200.075(2) (ninety days to five years); [34 TEX. ADMIN. CODE § 20.20](#) (commensurate with debarment period under [TEX. GOV'T CODE ANN. § 2155.077 \(Vernon 2008\)](#)); [7 VA. ADMIN. CODE § 10-20-80](#) (two years); WIS. ADMIN. CODE COMM. §§ 105.16(2), 104.65(4) (one year).

[FN27]. [CAL. PUB. CONT. CODE § 10115.10](#).

[FN28]. *Id.*

[FN29]. OR. REV. STAT. ANN. § 200.075(2); *see also id.* § 200.065(5).

[FN30]. [MO. CODE REGS. ANN. tit. 1, § 30-5.010\(5\) \(2006\)](#).

[FN31]. [TEX. GOV'T CODE ANN. § 2161.253](#).

[FN32]. [CONN. GEN. STAT. ANN. § 46a-56\(c\)](#) (West 2008).

[FN33]. [GA. CODE ANN. § 50-5-133](#) (West 2008).

[FN34]. [30 ILL. COMP. STAT. ANN. 575/8](#) (West 2008).

[FN35]. OR. REV. STAT. ANN. § 200.065 (West 2008).

[FN36]. *See* [R.I. GEN. LAWS § 37-14.1-8 \(2008\)](#); [WASH. REV. CODE ANN. § 39.19.090](#) (West 2008).

[FN37]. [VA. CODE ANN. § 18.2-213.1](#) (West 2008).

[FN38]. [TEX. GOV'T CODE ANN. § 2161.231](#); [TEX. PENAL CODE ANN. § 12.34](#) (Vernon 2008); *see also* [34 TEX. ADMIN. CODE § 20.17\(c\) \(2007\)](#).

[FN39]. [IND. CODE ANN. §§ 35-43-5-9, 35-50-2-7](#) (West 2008).

[FN40]. [CAL. PUB. CONT. CODE § 10115.10](#).

[\[FN41\]](#). *Id.*

29-SPG Construction Law. 40

END OF DOCUMENT