



*United States Attorney  
Southern District of New York*

**FOR IMMEDIATE RELEASE**  
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**MANHATTAN U.S. ATTORNEY CHARGES**  
**MULTI-MILLION DOLLAR PUBLIC WORKS FRAUD**

*Contractor Agrees To Pay \$19.6 Million In A Related  
Agreement*

PREET BHARARA, United States Attorney for the Southern District of New York, BARRY KLUGER, the Inspector General for the Metropolitan Transportation Authority ("MTA"), ROBERT E. VAN ETTEN, the Inspector General for the Port Authority of New York and New Jersey ("Port Authority"), TIMOTHY BARRY, the Principal Assistant Inspector General for Investigations of the U.S. Department of Transportation Office of Inspector General ("USDOT"), and ROBERT PANELLA, Special Agent-in-Charge of the New York Regional Office for the U.S. Department of Labor's Office of Inspector General, Office of Labor Racketeering and Fraud Investigations ("USDOL"), announced today the unsealing of an Indictment against BALU KAMAT and CARMINE DESIO, the president and vice president of Environmental Energy Associates, for engaging in a multi-million dollar fraud in connection with government programs designed to increase the participation of disadvantaged business enterprises in federally-funded public works contracts. KAMAT and DESIO surrendered to the USDOT this morning and were arraigned in Magistrate Court in Manhattan federal court this afternoon.

Manhattan U.S. Attorney PREET BHARARA stated: "The Disadvantaged Business Enterprise Program can mean the difference between success and failure for qualified, minority and women owned businesses. The alleged conduct of these defendants deprived legitimate DBEs from receiving millions of dollars in

lucrative government contracts. The message of today's criminal charges and \$19.6 million settlement should be loud and clear-- every company has to play by the rules, and we simply will not tolerate corruption in our government programs."

MTA Inspector General BARRY KLUGER stated: "The Indictment and multi-million dollar civil settlement announced today is the result of joint efforts by my office, the MTA, and the U.S. Attorney, to combat construction fraud and protect the integrity of the MTA's Minority and Disadvantaged Business Enterprise Program. Today's announcement demonstrates the commitment of our office and the MTA to create and maintain a level playing field in which all qualified minority- and women-owned businesses have a fair and equal opportunity to bid for, receive, and participate in all MTA projects. We are sending a loud and clear message to the construction industry that we and our investigative and prosecutorial partners are serious about enforcing compliance and will exact a heavy price from those who abuse the program. I wish to thank the United States Attorney for the Southern District of New York and his staff for their strong and sustained efforts and our continuing partnership."

Port Authority Inspector General ROBERT E. VAN ETTEN stated: "This investigation has shown how individuals in the construction industry have manipulated and circumvented the intent of the Minority and Women Business Enterprise Program by utilizing firms as fronts to satisfy the Program goals. I would hope that this case serves as an incentive to the industry to comply legitimately with the Program's goals. I urge those with information of instances of other fraudulent practices to report them to law enforcement. Working with our law enforcement partners we will continue to vigilantly investigate allegations of fraud in the construction industry."

USDOT Principal Assistant Inspector General TIMOTHY BARRY stated: "Disadvantaged Business Enterprise (DBE) fraud harms the integrity of the DBE program and law-abiding contractors, including many small businesses, by defeating efforts to ensure a level playing field in which all firms can compete fairly for contracts. Our agents will continue to work with DOT's agencies, and our law enforcement and prosecutorial colleagues to expose and shut down DBE fraud schemes that adversely affect the public trust and DOT-assisted programs throughout New York and elsewhere."

Special Agent-in-Charge of the New York Regional Office for the USDOL Office of Inspector General, Office of Labor Racketeering and Fraud Investigations ROBERT PANELLA, stated: "The OIG will continue to aggressively investigate contractors who allegedly defraud the minority and disadvantaged business

enterprises process by falsifying payroll records on Federally-funded construction projects in violation of the Davis Bacon Act. We will continue to work with our law enforcement partners to stop these abuses within the construction industry."

According to the Indictment unsealed today in Manhattan federal court:

#### Background on DBEs

In 1980, the USDOT issued regulations in connection with a program to increase the participation of minority and disadvantaged business enterprises ("DBEs") in federally-funded public construction contracts. To become certified as a DBE, a company must:

- be owned and controlled by socially and economically disadvantaged individuals;
- be an independent business whose viability does not depend on its relationship with other firms;
- employ its own work force and own equipment necessary to perform its work; and
- be able to meet its financial obligations

Recipients of USDOT construction grants are required to establish a DBE program that establishes goals for the percentage of a project's work that should be awarded to DBEs ("DBE goals"). General contractors on construction projects must make good faith efforts to meet the relevant DBE goals. The MTA and the Port Authority have established DBE programs and require companies that are awarded public works contracts to meet certain DBE goals.

General contractors can count funds paid to DBEs toward the attainment of the DBE goals only if the DBEs performed a "commercially useful function." A DBE subcontractor performs a commercially useful function only when:

- it is responsible for the execution of the work of the contract;
- it actually performs, manages, and supervises the work involved; and
- it furnishes the supervision, labor, and equipment necessary to perform its work.

A DBE does not perform a "commercially useful function" if "its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation."

KAMAT and DESIO's Fraud

BALU KAMAT and CARMINE DESIO were the president and vice president, respectively, of Environmental Energy Associates, Inc. ("EEA"), a certified DBE. KAMAT, DESIO, and EEA allegedly engaged in systematic fraud in connection with DBE programs adopted by the MTA, the Port Authority, and various New York City agencies. On countless projects, including the Fulton Street Transit Center Dey Street Concourse (an MTA project), the World Trade Center Transportation Hub (a Port Authority project), and an airline terminal at John F. Kennedy International Airport (a Port Authority project), KAMAT and DESIO allegedly:

- entered into subcontracts to perform work that they knew EEA was incapable of doing;
- arranged or agreed to have third parties actually perform the work EEA was contracted to perform;
- received a markup or fee for the work others performed; and
- purported to, but did not in fact, do work for which primary contractors claimed DBE credit

For example, on the Dey Street Concourse Project, EEA entered into a \$5.2 million subcontract with the northeast division of an international construction firm ("Contractor #1") to perform concrete and miscellaneous demolition work. KAMAT and DESIO allegedly knew that EEA lacked the labor, the equipment, and the financial wherewithal to perform this work. Consequently, Contractor #1 effectively self-performed the work it had subcontracted to EEA and helped create the appearance that EEA had done commercially useful work on the project.

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KAMAT and DESIO have each been charged with conspiracy to commit mail and wire fraud, as well as a mail fraud count relating to the Dey Street Concourse Project. Each faces a maximum of 40 years in prison.

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Separately, Mr. BHARARA announced that Skanska USA Civil Northeast, Inc. ("Skanska"), has entered into a non-prosecution agreement with the U.S. Attorney's Office. Pursuant to that agreement, Skanska will pay a total of \$19.6 million -- half to the USDOT and half to the MTA -- representing monies that Skanska paid EEA in connection with certain public construction contracts for which EEA served as a subcontractor. Skanska also agreed to cooperate with this Office, DOT, MTA, the Port Authority of New York-New Jersey and other designated agencies, in connection with any related criminal investigation by this

Office. In addition, Skanska will undertake a comprehensive review of all its existing minority and women-owned business subcontracts to ensure that they are in compliance with all applicable rules and regulations.

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Mr. BHARARA praised the work of the MTA Office of Inspector General, the Port Authority Office of Inspector General, the USDOT Office of Inspector General, and the USDOL Office of Labor Racketeering and Fraud Investigation for their comprehensive and methodical investigation. Mr. BHARARA noted that the investigation is ongoing.

This prosecution is being handled by the Office's Public Corruption Unit. Assistant U.S. Attorneys RICHARD TARLOWE and MICHAEL BOSWORTH are in charge of the prosecution.

The charges contained in the Indictment are merely accusations and the defendants are presumed innocent unless and until proven guilty.

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