



The City of New York
Department of Investigation

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DOI ARRESTS CONTRACTOR FOR FILING FALSE VENDEX INFORMATION

ROSE GILL HEARN, Commissioner of the New York City Department of Investigation (DOI), announced today the arrest of DAVID KESTENBAUM, owner and president of Delta Testing Laboratories (DELTA), for allegedly falsifying VENDEX forms filed with the New York City Economic Development Corporation (EDC) to obtain multiple subcontracts with EDC to conduct controlled and technical inspections of concrete and construction-related materials.

KESTENBAUM, 55, from New City, New York, has been charged with Offering a False Instrument for Filing in the First Degree (four counts), a class E felony. If convicted, he faces up to 4 years in prison.

Commissioner Gill Hearn said, "Let this case be a warning to other City vendors or potential vendors. The City only wants to do business with responsible companies who represent themselves honestly and who provide the services for which they were hired. VENDEX forms are scrutinized and those who provide false statements on these forms are subject to arrest and prosecution."

In order to obtain final payments and various EDC subcontracts valued at more than \$575,000 to perform inspectional testing at Randall's Island, Pier 79 and CSX Minor League Stadium in Staten Island, KESTENBAUM allegedly filed false information on the VENDEX Principal and Business Entity Questionnaires he submitted in January 2003 and in Affidavits of No Change filed in February 2004. By law, vendors under consideration for award of contracts must complete VENDEX questionnaires for their company and the principals. The questionnaires assist City agencies in reaching a responsibility determination. In the VENDEX questionnaires KESTENBAUM and DELTA submitted to EDC, they allegedly failed to disclose that both had previously been convicted of multiple felonies related to work the company performed under a contract with the School Construction Authority (SCA), and that both were permanently disqualified from bidding on future SCA contracts. Because of the false filings, KESTENBAUM and his company, DELTA, were named subcontractors on several City projects.

Commissioner Gill Hearn thanked EDC Interim President Joshua J. Sirefman and members of his staff, including the General Counsel's Office and the Contracts and Procurement Unit, for their assistance and cooperation in the investigation.

The investigation was conducted by DOI Inspectors Generals Mary T. Piechocki and Gia L. Morris, and Confidential Investigator Lourdes December.

The office of Manhattan District Attorney Robert M. Morgenthau is prosecuting the case, with Assistant District Attorney Melissa Marrus of the Special Prosecutions Bureau assigned.

Criminal complaints are accusations. Defendants are presumed innocent until proven guilty.

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