

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 23, 2021

COMMISSIONER PRESENT:

John B. Howard, Interim Chair

CASE 21-M-0351 - In the Matter of an Examination of Certain Programs and Related Capital and Operation and Maintenance Expenditures of National Grid USA, The Brooklyn Union Gas Company d/b/a National Grid NY, and KeySpan Gas East Corporation d/b/a National Grid.

ORDER COMMENCING PROCEEDING AND REQUIRING REPORT

(Issued and Effective June 23, 2021)

INTRODUCTION

On June 17, 2021, the United States Attorney for the Eastern District of New York (U.S. Attorney) announced that five managers (Defendants) of "a New York utility company" had been charged with conspiring to violate the Travel Act, 18 U.S.C. section 1952(a)(3)(A), by accepting hundreds of thousands of dollars in bribes and kickbacks in exchange for steering contracts to certain Long Island-based contractors with whom the company did business. A copy of the Complaint and Affidavit in Support of Application for Arrest Warrants (Complaint) is annexed as Attachment A. By letter, dated June 18, 2021, a copy of which is annexed hereto as Attachment B, the General Counsel of National Grid USA informed the Department of Public Service that each of the Defendants charged in the Complaint are former employees in National Grid's facilities department. The letter

explained that the facilities department is responsible for activities such as building maintenance, landscaping, paving, fencing and snow removal.

The allegations presented in the Complaint raise significant concerns related to the internal controls established and implemented by National Grid USA, The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) and KeySpan Gas East Corporation d/b/c National Grid (KEDLI and collectively, National Grid or Companies) to ensure the integrity of the Companies' contracting process.

For example, the Complaint alleges that the five former National Grid employees either approved "no bid" contracts valued at less than \$50,000 to an unnamed "Contractor" and/or took various steps to assist the Contractor in obtaining contracts from the Companies for which there was a bidding process. Those steps included providing the Contractor with non-public bidding information, circumventing National Grid's competitive bidding process and offering favorable reviews of the Contractor's work. The Complaint further alleges that the Contractor paid bribes - in the form of cash, the purchase of a recreational vehicle, home improvements, landscaping and an overseas vacation - to ensure that the Defendants did not slow or stop disbursement of project funds to the Contractor, provide negative performance reviews regarding the Contractor's work, or otherwise claim that the Contractor's work did not meet contractual specifications. The Complaint alleges that, all told, the Contractor received more than \$50 million in payments from National Grid between December 2014 and February 2020.

This proceeding will examine National Grid's justification for the expenditures associated with the work awarded to the Contractor and an appropriate remedy will be fashioned if the expenditures are found to be unjustified. The

facts described in the Complaint also justify a further investigation of National Grid's conduct and behavior with respect to its bidding and award of contracts through the facilities department.

As an initial step in this investigation, this Order requires National Grid to prepare and submit a report, which shall include at a minimum the information described below. This proceeding may result in recommendations for changes in National Grid's practices or procedures to reduce the risk of future improper expenditures or to improve the administration of its facilities department and other operations as may be appropriate. Further, the investigation will assist in developing recommendations concerning to what extent, if any, the scope of potential prudence and/or penalty aspects of this case should be expanded beyond the circumstances and payments made under the contracts identified in the U.S. Attorney's investigation.

BACKGROUND

The U.S. Attorney's investigation appears to have begun in January 2020, when the Federal Bureau of Investigation (FBI) received information that, in the aftermath of Hurricane Sandy in October 2012, two persons (identified as CW-1 and CW-2) acting on behalf of the Contractor paid bribes to various National Grid employees in order to receive work from the Companies.¹ According to CW-1, two of the Defendants (Richard Zavada and Patrick McCrann) indicated in a conversation that they had become unhappy with the work of an unnamed vendor who had performed work for National Grid. Based on the conversation CW-1 suspected that the vendor had been making bribe payments to

¹ Compl. ¶ 12.

Defendants Zavada and McCrann. The Complaint alleges that CW-1's suspicions were confirmed during a series of meetings, during which Zavada indicated he had an agreement with the vendor through which the defendant would receive a kickback of 5% of the total payments that the vendor received for all jobs performed for the Companies in which the defendant was involved.²

According to the Complaint, CW-2 recalled that, while at a job site, McCrann indicated that he wanted a kickback of 7% of the payments that the Contractor received from National Grid.³ CW-1 and CW-2 understood from these interactions that Zavada and McCrann, as well as other National Grid supervisors, had the authority to select any approved vendor outside of the bidding process for contracts valued at less than \$50,000.⁴ The Complaint alleges that, for these and other reasons, CW-1 and CW2 agreed to make bribe payments to Zavada, McCrann, and the three other Defendants.⁵

The Complaint also references numerous text messages exchanged between the National Grid employees and each of the Defendants. For example, on or about March 29, 2017, Zavada exchanged text messages with CW-1 that CW-1 understood to mean that they were to purchase a recreational vehicle for Zavada.⁶ CW-1 subsequently informed a FBI special agent that he purchased a recreational vehicle for Zavada. As another example, the Complaint alleges that the Contractor arranged and paid for travel and hotel accommodations to various locations, including an overseas vacation, that the Contractor understood as a bribe.

² Id.

³ Id.

⁴ Compl. ¶ 18.

⁵ Id.

⁶ Compl. ¶¶ 23-24.

On November 8, 2020, FBI special agents executed a search warrant on Zavada's house in Long Island, New York and seized, among other items, electronic spreadsheets that allegedly related to bribes paid by the Contractor and multiple other vendors that provided services to the Companies.⁷

As for McCrann, the Complaint notes that, on or about September 2, 2016, McCrann and CW-1 exchanged text messages as follows:

McCrann: Sandwich was light on the meat
CW-1: She's working on it
McCrann: K a little concerned as Mary always
make a great sandwich
McCrann: Have a great weekend
CW-1: I rushed her but I'll ask for a nice
one next time⁸

The Complaint alleges that McCrann was indicating through the exchange that a recent bribe payment was insufficient and that CW-1 was indicating that the next bribe payment would be larger.⁹ McCann allegedly exchanged other text messages with CW-1 in which he used the word "Mary" to mean a bribe payment.¹⁰ CW-1 and CW-2 also paid for renovations of McCrann's home in Upstate New York, including payments totaling \$90,000 made in the second half of 2018.¹¹

The Complaint also alleges bribe payments made to the three other Defendants (Devraj Balbir, Ricardo Garcia, and Jevan Seepaul). For example, the Complaint alleges that CW-1 arranged for electrical and other work at Balbir's residence costing more than \$100,000, with the invoices for the work submitted to and

⁷ Compl. ¶ 30.

⁸ Compl. ¶ 33.

⁹ Compl. ¶ 34.

¹⁰ Id. ¶¶ 35-38.

¹¹ Compl. ¶ 42.

paid by the Contractor.¹² The Complaint alleges a scheme between CW-1 and Balbir to inflate a change order on a National Grid job by \$80,000, with the \$80,000 paid to Balbir as a kickback.¹³

With respect to Garcia, the Complaint alleges that he regularly communicated with CW-2 to arrange the payment of bribes through the purchase of personal items using credit cards issued in the Contractor's name.¹⁴ Credit card payments allegedly made by the Contractor on behalf of Garcia included a college tuition payment totaling more than \$30,000 for a family member of Garcia, approximately \$6,400 for plane flights between Newark and Dubai, and a 10-day hotel stay in Dubai.¹⁵ As for Seepaul, the Complaint alleges that he regularly arranged for cash bribe payments for both himself and Balbir.¹⁶

The Complaint alleges that the work underlying the charges was undertaken pursuant to contracts overseen by National Grid's facilities department.¹⁷ Based on the allegations in the Complaint, the schemes associated with the charges likely existed at least since 2013 and continued through 2020. National Grid acknowledges in its letter (Attachment B) that the Defendants named in the Complaint are former employees in the Companies' downstate New York service territories. The Complaint alleges that during part of his 33 years of employment with National Grid or its predecessors, Zavada was responsible for managing the Companies' facilities in Long Island, and that McCrann was employed for 36 years, during which he became responsible for managing the Companies' facilities in New York

¹² Compl. ¶¶ 48-58.

¹³ Compl. ¶ 62.

¹⁴ Compl. ¶¶ 63 - 65.

¹⁵ Id. ¶¶ 66-68.

¹⁶ Id. ¶¶ 71-80.

¹⁷ Id. ¶ 3.

City and Long Island.¹⁸ The other three Defendants were each employed in the facilities department for between 5 and 28 years.¹⁹

Based on the allegations in the Complaint, it appears that some or all of the Defendants held positions at National Grid in which they had authority to approve "no-bid" contracts or played roles in approving contracts entered into between the Companies' facilities department and outside vendors. The Complaint did not associate any National Grid employees or former employees other than the five specifically identified Defendants.

One obvious implication of the charges, particularly as related to the alleged kickbacks, is that National Grid may have overpaid for contracts with the Contractor and perhaps other vendors. The U.S. Attorney's efforts could result in some restitution from the Defendants to National Grid. National Grid may also have insurance coverage for some of any losses associated with the charges in the Complaint. Any potential recovery, however, may not provide reimbursement sufficient to offset the overpayments National Grid's customers may have made for the work performed under the contracts through the Companies' rates.

DISCUSSION

Pursuant to Public Service Law (PSL) section 65, National Grid, as an electric and gas corporation, is charged with providing to its customers safe and adequate service at rates that are just and reasonable. By the same section, and other provisions of the PSL, including PSL section 66, the

¹⁸ Id. ¶¶ 4-5.

¹⁹ Id. ¶¶ 6-8.

Commission is charged with ensuring that the Companies comply with such requirements.

As alleged, the conduct described in the Complaint appears to have resulted in unwarranted payments by National Grid to contractors to the detriment of the Companies' customers. Such unwarranted expenditures would have been included in the costs of the Company's maintenance projects. Because such expenditures are an integral part of National Grid's rate case filings, such costs would have been, and continue to be, collected in gas rates charged to customers. To the extent that National Grid's rates included charges for payments to contractors that were illegal and unwarranted, they could be the basis for unjust and unreasonable rates that were established using forecasts of such costs and expenditures.

Moreover, National Grid's conduct in connection with the contracts at issue could be deemed imprudent. Under the aforementioned sections of the PSL, the Commission has the power to review past actions of the Companies. If the Commission finds that the Companies actions were imprudent, it may order relief. The Complaint details actions by National Grid managers and high-level employees that may be illegal and included the creation and payment of unwarranted charges under maintenance contracts. In light of the charges alleged in the Complaint, the prudence of the Company's actions must be closely examined. In the absence of a persuasive justification by National Grid, the likely inflated payments made by the Companies under these contracts would be imprudent.

Based on the foregoing, this proceeding is initiated to examine the issues identified in the Complaint. The Complaint specifically refers to employees of National Grid's facilities department operating in the KEDNY and KEDLI service territories. Facilities in the Companies' downstate service

territories may be shared facilities between KEDNY and KEDLI, with costs allocated among those two operating companies. Additionally, National Grid USA has a third operating company in New York State, Niagara Mohawk Power Corporation d/b/a National Grid (NMPC). While NMPC's electric and gas service territories are located in upstate New York, it is possible that some costs affected by the allegations in the Complaint are allocated to NMPC. Furthermore, the alleged wrongdoing identified in the Complaint may not identify related or analogous wrongdoing affecting other National Grid contracts.

In this proceeding, National Grid must, at a minimum, evaluate all of its contracts entered into through or on behalf of the facilities department from 2010 to date, unless it can demonstrate why a shorter timeframe is appropriate. In particular, the Complaint alleges kickbacks and/or bribes related to National Grid contracts with at least two vendors. National Grid must endeavor to identify the two vendors and review all of its contracts with these vendors during the aforementioned timeframe. Upon its review, National Grid must identify all operations and maintenance (O&M) and capital expenditures associated with the contracts with these vendors. Further, National Grid must also demonstrate that its expenditures related to such contracts were prudent.

Should the examination undertaken through this proceeding result in findings that National Grid's expenditures were imprudent, or that National Grid violated one or more provisions of the PSL, Commission regulations, or Commission Orders, further action will be taken. For example, if the Companies cannot demonstrate that capital expenditures were prudently incurred, the Companies could be required to restate their rate base so as to exclude from rate base all or a portion of the expenditures made under any of the contracts, and

establish a deferral for the benefit of customers in an amount equal to the amount of return of and on rate base associated all or a portion of such contracts in the period from January 2010 to date.

At the time of this Order, there are pending rate proceedings regarding KEDNY and KEDLI's gas rates.²⁰ It is anticipated that those pending rate proceedings will be addressed at a Commission session in the next few months. The need for a thorough examination of the issues identified in the Complaint does not allow for a final conclusion of these issues in that timeframe. Accordingly, action must be taken to protect the Commission's ability to review and adjust the costs recovered from customers as a result of rates ultimately set in those proceedings. Although this action need not be taken in this Order, it can be taken at the time the Commission considers the rate proceedings.

One option that the Commission can consider in the context of resolving the pending KEDNY and KEDLI rate proceedings is providing for recovery of a portion of the Companies' revenue requirements through an adjustment clause mechanism, which renders it subject to later adjustment and refund to customers. This would be similar to actions taken in prior rate proceeding regarding Consolidated Edison Company of New York, Inc. (Con Edison). In Case 08-E-0539, Con Edison filed a request for increased rates in April 2008. Prior to the Commission issuing a rate order in that proceeding, certain Con Edison employees were arrested regarding an alleged scheme including kickbacks and inflated invoices from vendors performing construction work for Con Edison. In order to ensure flexibility to disallow unreasonable costs once the then pending

²⁰ Cases 19-G-0309 and 19-G-0310, KEDNY and KEDLI - Gas Rates, (filed April 30, 2019).

Commission investigation concluded, the Commission required Con Edison to recover a portion of its rates in each rate year through a Rate Adjustment Clause.²¹

The Complaint raises an obvious concern that there may be deficiencies in National Grid's oversight of its facilities maintenance, contracting and bidding processes. The Complaint also raises the possibility that the scope of the inquiry should extend to other contracts or projects not identified in the Complaint. There is some evidence in the Complaint that the scope of misconduct may have included bid rigging, favoritism with respect to "no-bid" contracts, and other behaviors inimical to the best interests of National Grid, its customers and other contractors. These facts raise serious questions as to whether National Grid's internal controls were inadequate or were inadequately enforced to protect the Companies from excessive payments and illegal conduct by its employees. Accordingly, this proceeding will include an investigation of the Companies' internal controls and the consideration of appropriate remedies, including consideration of whether the scope of the inquiry should be expanded to include capital or O&M project contracts or expenditures other than those addressed in the Complaint.

As a first step in this investigatory phase of the case, National Grid is required to conduct an investigation and produce an Investigative Report within 60 days of issuance of this order which, at a minimum:

- A. describes all controls in place in the period from January 2010 to date designed to protect National Grid and its customers, from overcharges for work done by contractors under capital and O&M project contracts, from kickbacks or other illegal payments to employees from contractors, bid rigging or other practices which

²¹ Case 18-E-0539, Con Edison - Electric Rates, Order Setting Electric Rates (issued April 24, 2009), pp. 328 - 331.

compromise the Companies' ability to secure goods and services at the lowest price;

- B. describes all controls in place in the period from January 2010 to date with respect to the negotiation or administration of the Companies' capital, O&M, and service contracts, including but not limited to "no-bid" contracting processes, the bidding process, vendor selection process, evaluation process, and subsequent contract oversight and administration process, including company verification, remittance, and review of contractor bill statements;
- C. identifies any auditors, attorneys, or other experts, internal or external to the Companies' operations, who have been retained by the Companies at any time from January 2010 to date to investigate and/or report on any aspect concerning the internal controls for capital, O&M, and/or service project contracts and provide to the Commission all of their written findings to date;
- D. provides any internal audit reviews and/or reports, and investigations of complaints regarding National Grid-retained contractors and/or employees involved with capital and O&M for the period from January 2010 to date referring to or involving bribes, kickbacks or any other illegal conduct or conduct that would otherwise compromise the Companies' internal controls for the initiation, implementation, or management of its facilities department programs;
- E. describes all methods and procedures used by the Companies from January 2010 to date to verify compliance with the Companies' procedures and controls, as well as any remedial measures or procedures applicable when a provision of the Companies' controls were not complied with, or were waived or otherwise compromised, and describes each instance when any of such remedial measures or procedures were used during the period and to what effect;
- F. provides the total cost of contractor service and the number of contracts under which costs were incurred by or on behalf of National Grid's facilities department in each calendar year for the period from January 2010 to date in the KEDNY and KEDLI service areas. For every contract, identify the contractor, service provided, and break out the costs of the contract between capital and

O&M expenditures. Further, for each contract, National Grid shall provide the allocation of the costs between KEDNY, KEDLI, and any other affiliated or third-party entities including, but not limited to NMPC;

- G. provides the total cost of contractor service associated with each of National Grid's open contracts related to services provided to or on behalf of the facilities department. National Grid shall also provide, for each calendar year, a breakdown of each project's contractor costs among the KEDNY and KEDLI service areas. Such costs should be further segregated between capital and O&M expenditures, and by specific contractor in cases where the contractor has received payments that exceed or are likely to exceed \$1 million in 2021. Further, for each contract, National Grid shall provide the allocation of the costs between KEDNY, KEDLI, and any other affiliated or third-party entities including, but not limited to NMPC; and
- H. provides any plans that National Grid has to pursue recovery of and/or damages that have resulted from the alleged illegal activity that is the subject of the Complaint and this Order or from further illegal activity that may be discovered through this investigation, as well as the total amounts, if any, that the Companies are seeking or intending to seek from contract counterparties in damages, and the extent, if any, to which such claim may be covered by a surety, bond or other guarantee from the contract counterparty, or from any insurance policy held by the Companies.

Following and as a consequence of this initial assessment, this case will consider the implications for expanding the investigation, including any prudence or penalty phases and, or for instituting corrective actions, as described further below.

It is also noteworthy that the criminal charges did not result from any internal investigation or audit conducted by National Grid. Given the information contained in the Complaint, the Company's own controls and oversight appear to be insufficient to prevent this type of occurrence from happening in the future. The Commission's ability to judge the

reasonableness of National Grid's future rate filings, particularly with regard to its facilities budgets and forecasts, may be significantly impaired. Accordingly, this proceeding will examine what actions National Grid has taken or could take and what controls it will implement to establish that the Commission can, with confidence, set rates in the future based upon the Companies' assertions regarding its costs and expenditures, as well as the need for and cost of projects.

CONCLUSION

Based on the review of the Complaint supporting the arrest warrants for five former National Grid employees for soliciting and accepting from a contractor improper payments in connection with facilities department contracts in Long Island and New York City, sufficient questions are raised to warrant the commencement of this proceeding to examine potential imprudence, the adequacy of National Grid's internal controls, and National Grid's compliance with its own internal procedures as well as provisions of the PSL, the Commission's regulations, and Commission orders. In this proceeding, National Grid's justification for these expenditures will be examined and if found unjustified, an appropriate remedy will be fashioned. Because the facts described in the publicly available investigative materials raise serious questions as to the adequacy of National Grid's internal controls, this proceeding will also encompass an examination of the Companies' conduct and behavior with respect to other contract expenditures. As this examination proceeds, National Grid is expected to cooperate in full and good faith with all forms of discovery, including depositions, and to provide prompt access to all requested books and records and, as needed, utility personnel.

It is ordered:

1. A proceeding is instituted to address the issues described in the body of this Order.

2. National Grid USA, The Brooklyn Union Gas Company d/b/a National Grid NY, and KeySpan Gas East Corporation d/b/a National Grid are directed to provide an Initial Investigative Report discussed herein within 60 days of the issuance of this Order.

3. National Grid USA, The Brooklyn Union Gas Company d/b/a National Grid NY, and KeySpan Gas East Corporation d/b/a National Grid are directed to preserve and maintain any and all documents and records relating to the events, contracts and employees underlying this Order or otherwise related to or within the scope of the inquiry established in this Order.

4. In the Secretary's sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least three days prior to the affected deadline.

5. This proceeding is continued.

(SIGNED)

Commissioner

ATTACHMENT A

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RTP:NR/FTB

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

- against -

RICHARD ZAVADA,
PATRICK MCCRANN,
DEVRAJ BALBIR,
 also known as “Dev,”
RICARDO GARCIA,
 also known as “Rick,” and
JEVAN SEEPAL,

COMPLAINT AND AFFIDAVIT IN
SUPPORT OF APPLICATION FOR
ARREST WARRANTS

(18 U.S.C. § 1952(a)(3)(A))

Case No. 21 MJ 696 (MMH)

Defendants.

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EASTERN DISTRICT OF NEW YORK, SS:

KENNETH HOSEY, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation (“FBI”), and alleges as follows:

In or about and between July 2013 and July 2020, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants RICHARD ZAVADA, PATRICK MCCRANN, DEVRAJ BALBIR, also known as “Dev,” RICARDO GARCIA, also known as “Rick,” and JEVAN SEEPAUL, together with others, did knowingly and intentionally use one or more facilities in interstate and foreign commerce, to wit: one or more cellular telephones, with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on, of one or more unlawful activities, to wit: commercial bribe receiving in the second degree,

in violation of New York Penal Law Section 180.05,¹ and thereafter performed acts to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on, of such unlawful activity.

(Title 18, United States Code, Section 1952(a)(3)(A))

1. I am a Special Agent with the FBI and have been so for 26 years. I have been involved in the investigation of numerous cases involving fraud and corruption, including corruption involving public officials and bribery. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file and from reports of other law enforcement officers involved in the investigation. Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

I. Relevant Parties

2. The defendants RICHARD ZAVADA, PATRICK MCCRANN, DEVRAJ BALBIR, RICARDO GARCIA, and JEVAN SEEPAUL were employed by a publicly traded utilities company that operates in multiple states, including New York (the “Company”).

3. Throughout the time period relevant to this Complaint, the Company entered into contracts with various entities to maintain the Company’s facilities throughout

¹ New York Penal Law 180.05 provides that “[a]n employee, agent or fiduciary is guilty of commercial bribe receiving in the second degree when, without the consent of his employer or principal, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that such benefit will influence his conduct in relation to his employer's or principal's affairs.” New York Penal Law Section 180.05 is a Class A misdemeanor.

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New York. Performance of these contracts was overseen by the Company's Facilities department (the "Facilities Department"). Among the entities with which the Company contracted for maintenance services were two companies, owned by the same individuals, based in Long Island, New York (collectively, the "Contractor").

4. The defendant RICHARD ZAVADA was employed in the Facilities Department of the Company or the Company's predecessor entities for approximately 33 years. At certain times relevant to the Complaint, ZAVADA was responsible for managing the Company's facilities in Long Island.

5. The defendant PATRICK MCCRANN was employed in various capacities at the Company or its predecessor entities for approximately 37 years and served as a manager in the Facilities Department. MCCRANN retired from the Company in or about January 2019. MCCRANN was responsible for managing the Company's facilities in New York City and Long Island until his retirement.

6. The defendant DEVRAJ BALBIR, also known as "Dev," was employed as a manager in the Facilities Department for approximately five years.

7. The defendant RICARDO GARCIA, also known as "Rick," was employed in various capacities at the Company, including as a manager in the Facilities Department. GARCIA was employed for the Company for approximately 28 years. From approximately 2018 through 2020, GARCIA was responsible for managing the Company's facilities in New York City and Long Island.

8. The defendant JEVAN SEEPAL was employed as manager in the Facilities Department between in or about October 2014 and November 2017.

9. Cooperating Witness 1 (“CW-1”) was an owner of the Contractor.²
10. Cooperating Witness 2 (“CW-2”) was an owner of the Contractor.³
11. Cooperating Witness 3 (“CW-3”) was a vendor to the Company.⁴

II. Overview

12. In January 2020, the FBI received information that, in the aftermath of Hurricane Sandy in October 2012, CW-1 and CW-2 paid bribes on behalf of the Contractor to various representatives of the Company in order to receive work from the Company. As set forth below, the investigation has identified evidence that the defendants RICHARD ZAVADA, PATRICK MCCRANN, DEVRAJ BALBIR, RICARDO GARCIA, and JEVAN SEEPAUL solicited and received bribe payments from CW-1, CW-2, and other vendors of

² CW-1 began cooperating with law enforcement in or about July 2020. CW-1 subsequently pleaded guilty to a federal felony charging him/her with paying and/or directing others to pay bribes to employees of the Company. CW-1 is cooperating in hopes of receiving leniency when CW-1 is sentenced. Information provided by CW-1 has proven reliable and has been independently corroborated by, among other things, financial records, toll records, text messages, consensually recorded conversations, and information provided by other witnesses.

³ CW-2 began cooperating with law enforcement in or about July 2020. CW-2 subsequently pleaded guilty to a federal felony charging him/her with paying and/or directing others to pay bribes to employees of the Company. CW-2 is cooperating in hopes of receiving leniency when CW-2 is sentenced. Information provided by CW-2 has proven reliable and has been independently corroborated by, among other things, financial records, toll records, text messages, consensually recorded conversations, and information provided by other witnesses.

⁴ CW-3 began cooperating with law enforcement in or about July 2017. CW-3 previously pleaded guilty to a federal felony charging CW-3 with conduct unrelated to the Company. CW-3 is cooperating in hopes of receiving leniency when CW-3 is sentenced. Since beginning his/her cooperation, information provided by CW-3 has proven reliable and has been independently corroborated by, among other things, financial records, toll records, text messages and information provided by other witnesses. However, when first asked about bribe payments to representatives of the Company, CW-3 denied such payments. CW-3 later acknowledged having paid bribes as described in greater detail below.

the Company. Notably, between December 2014 and February 2020, the Contractor received more than \$50 million in payments from the Company.

13. In or about July 2020, CW-1 and CW-2 began cooperating with the government's investigation, including meeting with FBI special agents on several occasions. CW-1 and CW-2 admitted having made bribe payments to the defendants to secure work from the Company and to receive other favorable treatment for the Contractor relating to its work at the Company. This favorable treatment included, but was not limited to, the following: providing non-public information about competitors' bids; awarding no-bid contracts,⁵ structuring the value of contracts to avoid additional approval requirements and providing favorable performance reviews.

14. CW-1 and CW-2 further acknowledged that they continued to pay bribes for fear that, in the absence of such payments, the defendants could harm the Contractor's ability to continue to do work for the Company. Additionally, the defendants, MCCRANN, GARCIA (subsequent to May 1, 2019) and BALBIR (subsequent to May 1, 2020), had the authority to approve "no-bid" contracts valued at less than \$50,000 and could elect to use the Contractor's competitors in the absence of the requested bribes. Further, each of the defendants had the authority to slow or stop disbursement of project funds to the Contractor, provide negative performance reviews regarding the Contractor's work or otherwise claim that the Contractor's work did not meet contractual specifications. As such,

⁵ The Company permitted certain field supervisors to approve contracts for projects projected to be under \$50,000 to a pre-approved set of vendors without seeking competitive bids. After the projects were awarded, the field supervisors, regardless of their authority to approve projects under \$50,000, facilitated disbursement of project funds, monitored the progress of the projects and provided feedback to Company representatives who were in position to award future projects.

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each of the defendants was in a position to cause significant economic harm to Company vendors, such as the Contractor, who failed to pay the kickbacks they demanded.

15. CW-1 and CW-2 often communicated with the defendants regarding these bribe payments via cellular telephone and text messages. As detailed below, these bribe payments took the form of cash, vehicles, tuition payments, home renovations, personal electronic devices, travel and vacation expenses and other items of value.

III. The Defendants' Bribery Schemes

16. According to CW-1, in or about 2013, CW-1 and CW-2 established the Contractor and subsequently began submitting bids to perform work for the Company. In or about 2014 or 2015, both ZAVADA and MCCRANN indicated to CW-1 that ZAVADA and MCCRANN were unhappy with a vendor ("Vendor-1") who had performed work for the Company, including telling CW-1 that Vendor-1 had been "screwing them over." Based on these conversations, CW-1 suspected Vendor-1 had been making bribe payments to MCCRANN and ZAVADA. CW-1's suspicions were confirmed during a series of meetings with ZAVADA. During the meetings, ZAVADA indicated he had an agreement with Vendor-1 pursuant to which ZAVADA would receive a kickback of 5% of the total payments that Vendor-1 received for all jobs performed for the Company in which ZAVADA was involved.

17. When the Contractor began performing work for the Company that ZAVADA supervised, ZAVADA made clear to CW-1 that he (ZAVADA) could elect to use vendors, other than the Contractor, to perform work for the Company. Similarly, CW-2 recalled that, while at a Company job site located in Hicksville, New York, MCCRANN indicated to CW-1 and CW-2 that he wanted to receive a kickback of 7% of the payments

that the Contractor received from the Company.⁶

18. CW-1 and CW-2 understood ZAVADA, MCCRANN, and the other Company supervisors had the authority to select any approved Company vendor, without relying on a bidding process, for contracts valued at less than a certain amount (\$50,000). CW-1 and CW-2 further understood, based on their conversations with ZAVADA and MCCRANN, that ZAVADA, MCCRANN and other Company supervisors could make the performance of their job and the receipt of payment from the Company very difficult for the Contractor if the bribes they sought were not paid.⁷ As such, CW-1 and CW-2 agreed to make bribe payments to ZAVADA, MCCRANN and, ultimately also to BALBIR, GARCIA, and SEEPAUL.

19. Similarly, when interviewed by FBI special agents, Vendor-1 also acknowledged that, in the aftermath of Hurricane Sandy, both ZAVADA and MCCRANN had solicited cash bribe payments from his/her company. In reference to MCCRANN, Vendor-1 stated, in substance, that given MCCRANN's position at the Company, MCCRANN could have "made life miserable" for Vendor-1. Vendor-1 agreed to make the bribe payments demanded by ZAVADA and MCCRANN.

20. In addition, CW-3, who was also a vendor for the Company during the relevant time period, acknowledged to FBI special agents that CW-3 paid cash bribes to both ZAVADA and MCCRANN. CW-3 recalled having initiated the payments to MCCRANN

⁶ CW-1 and CW-2 did not ultimately pay the 7% amount; rather, they paid payments in the amounts discussed below.

⁷ For instance, CW-2 informed agents that a Company supervisor could do significant financial harm to the Contractor financially by, for instance, citing a minor safety infraction as a basis to substantially delay or halt work on a job site.

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by providing him an envelope containing approximately \$5,000 in cash at a location in Brentwood, New York. In response, MCCRANN said, in substance, “You don't have to do that.” CW-3 replied, in substance, “I appreciate the help.” CW-3 stated that, although CW-3 believed that neither ZAVADA nor MCCRANN determined which vendor received Company contracts, they provided vendors with a “good report card” or a “bad report card.” For example, CW-3 indicated if a vendor had an accident at a job site, ZAVADA and MCCRANN were the Company representatives responsible for assessing the Company's response. CW-3 also understood both ZAVADA and MCCRANN had influence with the Company representatives who awarded contracts.

21. CW-1 also understood that, on certain occasions, ZAVADA, MCCRANN, and GARCIA awarded projects over the \$50,000 threshold to the Contractor by dividing the project into smaller units or by dividing the project between other departments of the Company.

IV. The Defendants' Communications with the Contractor

22. Each of the defendants repeatedly communicated with CW-1 or CW-2, via text message, to solicit bribes payments from the Contractor while the Contractor was performing work for the Company. The communications below reflect a non-exhaustive sample of those communications:

a. RICHARD ZAVADA

23. On or about March 29, 2017, ZAVADA and CW-1 had the following exchange:

ZAVADA: Do you need the wiring information or RV [recreational vehicle] number?
CW-1: The phone number of rv shop.

ZAVADA: The number is [phone number of recreational vehicle dealership]

24. Based on my knowledge of the investigation to date, including my discussions with CW-1, I believe that, here, ZAVADA wanted CW-1 to purchase a recreational vehicle (“rv”) for ZAVADA and asked CW-1 how CW-1 was going to pay for the purchase (“Do you need the wiring information”). CW-1 told FBI special agents that he had purchased more than one recreational vehicle as a bribe payment to ZAVADA.

25. On or about December 2, 2018, ZAVADA and CW-1 had the following text message exchange:

ZAVADA: Who was it you spoke too? They have me in a Cottage??? Im on hold
CW-1: They said that was the best accommodation and guarantees the king beds

26. Based on the investigation to date, including my discussions with CW-1, I believe that, here, ZAVADA and CW-1 were communicating about hotel accommodations the Contractor had made and paid for on behalf of ZAVADA. I further believe the communication reflects ZAVADA’s dissatisfaction with the accommodations. Bank records and records obtained from the Contractor further reflect that CW-1 arranged and paid for ZAVADA’s travel to various locations including an overseas vacation.

27. On or about February 13, 2020, ZAVADA sent CW-1 a text message which read: “Can you please pay this thank You.” Attached to the text message was an image of invoice from a landscaping company for \$1,710.77 for work performed at ZAVADA’s residence. Here, I believe ZAVADA requested that CW-1 pay ZAVADA’s personal expenses – landscaping work at ZAVADA’s residence. CW-1 advised this was one of many personal expenses paid for by the Contractor as a bribe to ZAVADA.

28. On or about August 27, 2020, CW-1, acting at the direction of FBI

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special agents, consensually recorded his/her meeting with ZAVADA which occurred at ZAVADA's residence in Long Island, New York. I have reviewed the recording and discussed the meeting with CW-1. During the meeting, CW-1 discussed the amount of money ZAVADA claimed the Contractor "owed" ZAVADA for work performed for the Company. When CW-1 questioned ZAVADA's calculation, ZAVADA asked CW-1, "Who are you?" and indicated, in sum, substance and part that CW-1 was not in a position to question ZAVADA. ZAVADA further stated, in sum, substance and part that he had referred CW-1 work for the Contractor from clients other than the Company. ZAVADA indicated he had been very fair and frugal with CW-1 in his calculations and was not seeking money for all the other (non-Company) work that ZAVADA had referred to CW-1.

29. During the same conversation, ZAVADA made clear he would withhold payments due from the Company to the Contractor if CW-1 did not make the requested payments. ZAVADA stated that, due to changes taking place at the Company, "I need to cash in and cash out. Tomorrow they may give me the (expletive) boot." ZAVADA ultimately told CW-1 that he (ZAVADA) would "work" with CW-1 on the amount that ZAVADA expected to receive from the Contractor.

30. On November 18, 2020, FBI special agents executed a search warrant on ZAVADA's residence in Long Island, New York.⁸ Among the items seized during the search were electronic spreadsheets maintained by ZAVADA that contained dates, the amounts of bribe payments, and the names of various entities which provided facilities services to the Company. Among the entities identified in the spreadsheets was the

⁸ On the same day, agents also recovered approximately \$300,000 in cash from a safe deposit box held by ZAVADA.

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Contractor. Based on the spreadsheets and the August 27, 2020 meeting between CW-1 and ZAVADA described above, I believe that ZAVADA had calculated that he was “owed” more than \$100,000 from the Contractor relating to work performed for the Company in 2018 and more than \$200,000 for work performed in 2019.

31. In addition, the spreadsheets listed multiple other Company vendors from whom ZAVADA received bribe payments. The spreadsheets included payments received from Vendor-1 and an entity controlled by CW-3. Vendor-1 did not recall the specific bribe amounts paid to each individual but estimated having paid approximately \$10,000 to ZAVADA and a significantly larger sum to MCCRANN. However, records of bribe payments maintained by ZAVADA appear to reflect that Vendor-1’s payments to ZAVADA were substantially greater than \$10,000.

b. PATRICK MCCRANN

32. The defendant PATRICK MCCRANN regularly communicated with CW-1 via text message to arrange the receipt of cash bribes. According to CW-1, he/she and MCCRANN used coded language in the communications, referring to the cash bribes as various food items received from “Mary.” For example:

33. On or about September 2, 2016, MCCRANN and CW-1 had the following text message exchange:

MCCRANN: Sandwich was light on the meat
CW-1: She’s working on it
MCCRANN: K a little concerned as Mary always make a great sandwich
MCCRANN: Have a great weekend
CW-1: I rushed her but I’ll ask for a nice one next time

34. Based on my knowledge of the investigation, including my discussions with CW-1, I believe MCCRANN was indicating to CW-1 that a recent bribe payment was

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insufficient (“Sandwich was light on the meat” and he was “a little concerned.”). I further believe CW-1 was indicating the next bribe payment would be larger (“I’ll ask for a nice one next time”).

35. On or about November 17, 2016, MCCRANN and CW-1 had the following text message exchange:

CW-1: Hey forgot to ask any updates with [facility belonging to the Company] drainage?
MCCRANN: I'll check with Mary and get back to you
CW-1: I'm almost positive she's available tomorrow[.] She's supposed to confirm this afternoon
MCCRANN: Great

36. Based on the investigation to date, including my conversations with CW-1, I believe CW-1 was inquiring about the status of a project for the Company. However, MCCRANN responded with a reference to “Mary.” As such, I believe that MCCRANN’s willingness to assist the Contractor with the project was dependent on his receipt of a bribe payment (“I’ll check with Mary and get back to you”). CW-1 agreed to pay promptly (“I’m almost positive she’s available tomorrow[.] She’s supposed to confirm this afternoon”).

37. On or about January 26, 2017, MCCRANN and CW-1 had the following text message exchange:

MCCRANN: How is my friend [M]ary – maybe she would like to tour garden city
CW-1: She’s been good
MCCRANN: She needs to step it up.

38. Based on the above, I believe that MCCRANN was requesting another cash bribe from the Contractor (“How is my friend [M]ary”) and further indicating the Contractor needed to provide a bribe in the near future (“She needs to step it up”). I further

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understand these communications reflect MCCRANN's practice of linking his requests for bribe payments with references to potential work for the Company ("tour garden city").

39. As part of the investigation, the FBI interviewed an individual who performed sub-contracting work for the Contractor ("Sub-Contractor-1"). Sub-Contractor-1 stated CW-2 had previously asked him/her for cash, which Sub-Contractor-1 provided in exchange for checks issued by the Contractor to one of Sub-Contractor-1's businesses. Sub-Contractor-1 understood from his/her conversations with CW-2 that some of the cash s/he provided to CW-2 was used for the payment of bribes to representatives of the Company.

40. Sub-Contractor-1 recalled a specific instance in which CW-2 requested \$5,000 in cash at a time when Sub-Contractor-1 was performing work for the Contractor at a Company jobsite. CW-2 informed Sub-Contractor-1 that the money was for "McCann." After having obtained the cash, CW-2 instructed Sub-Contractor-1 to leave it in CW-1's vehicle, which was parked at the jobsite. Shortly thereafter, Sub-Contractor-1 observed CW-1 and MCCRANN enter CW-1's vehicle and leave approximately 15 minutes later.

41. As part of the investigation, the FBI interviewed another individual ("Employee-1") who served as an employee of the Contractor at the time that CW-1 and CW-2 were making bribe payments to MCCRANN and the other defendants. Employee-1 stated that, while s/he was working in the Contractor's office, s/he heard CW-1 state, in sum, substance and part, that "Pat called and asked if MaryJane was working at the deli." CW-1 explained to Employee-1 that "MaryJane" was a reference to cash payments made to MCCRANN. Employee-1 understood that these payments were being made to MCCRANN in connection with MCCRANN's work at the Company.

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42. CW-1 and CW-2 also paid for renovations made to MCCRANN's home in Upstate New York. CW-2 provided a copy of a document CW-2 had received from MCCRANN relating to the renovations. The renovations were paid for with two checks: one in the amount of \$40,000 issued on or about September 10, 2018, and another in the amount of \$50,000 issued on or about November 14, 2018. The checks were issued from bank accounts controlled by the Contractor but not in the name of the Contractor's primary business.

43. As part of the investigation, the vendor who performed the work on MCCRANN's home in Upstate New York was interviewed by the FBI. The vendor confirmed having received two third-party checks from MCCRANN as payment for the work. The vendor believed MCCRANN told him/her that MCCRANN was paying with third-party checks because MCCRANN was owed money for (non-Company) contracting work MCCRANN had purportedly performed. When interviewed by FBI special agents, on September 2, 2020, MCCRANN claimed the \$40,000 and \$50,000 checks were loans that he received from CW-1. MCCRANN has not produced any documents in support of his claim the \$40,000 and \$50,000 checks were loans from CW-1 and CW-1 has confirmed that the payments were not loans.

44. Employee-1 also informed agents that in or about March 2018, the Contractor bid on a paving contract at a Company facility in Suffolk County, New York. During the bid process, Employee-1 attended a meeting in CW-1's office during which CW-1 displayed an Excel spreadsheet on a screen. Employee-1 recalled the spreadsheet having contained line item pricing for concrete, asphalt, and other items. During the meeting, CW-1 told Employee-1 the spreadsheet had been obtained from MCCRANN. Employee-1

understood the spreadsheet to contain the competitor's bid information for the paving project. The Contractor was ultimately awarded the contract.⁹

45. Similarly, on or about April 10, 2017, MCCRANN and CW-1 had the following text message exchange regarding a separate project:

MCCRANN: Your [sic] at 305 [Competitor] is 225 No can do 80 k diff no way
CW-1: Ok let me talk with [an associate]
MCCRANN: Quick Not even close at this point Need to get within 25

46. Based on the above, I believe that MCCRANN was advising CW-1 the Contractor's bid for a project with the Company was \$80,000 higher than a competitor's bid and that, with such a large difference, the Contractor would not win the bid ("No can do 80 K diff no way"). I further believe MCCRANN was advising CW-1 that the Contractor's bid had to be within \$25,000 of the competitor's bid to be competitive ("Need to get within 25").

c. DEVRAJ BALBIR

47. The defendant DEVRAJ BALBIR regularly communicated with CW-1 and CW-2 via text message to arrange the receipt of bribes, including payments for renovations to his home. For example:

48. On or about May 3, 2017, BALBIR and CW-1 had the following exchange:

BALBIR: What's up with this electrician? Need him here...
BALBIR: What's your guys (sic) number?...

⁹ CW-1 informed agents that MCCRANN showed CW-1 a spreadsheet in connection with this project. However, the information contained in the spreadsheet was not actually useful in the Contractor's bid preparation and related to additional work MCCRANN thought would be lucrative. CW-1 understood this information was provided by MCCRANN in an attempt to obtain additional work for the Contractor from the Company for which MCCRANN could solicit payments.

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CW-1: I'll call him now...I thought he had someone else lined up.
BALBIR: No, doesn't sound like it and we're ready for him at this point.
CW-1: Ok I'll take care
CW-1: of
BALBIR: my man

49. Around the same time, CW-1 received the following text message from another individual regarding BALBIR.

Individual: Hey [CW-1] you can have the electrician do the work at Dev's house. If you want to give me his contact I will call him.

50. Shortly thereafter, CW-1 sent a text message to an electrician (the "Electrician"), advising the Electrician, in sum, substance and part, to proceed with work at BALBIR's residence. A review of records obtained during the course of the investigation reflected the Electrician having submitted invoices to the Contractor for more than \$10,000 in electrical work performed at BALBIR's residence in 2017 and 2018.

51. As part of the investigation, the Electrician was interviewed and confirmed s/he had performed work at the residence of BALBIR. When performing work for the Contractor, the Electrician typically received work assignments from CW-2. However, on one occasion, the Electrician received a call from CW-1. During the call, CW-1 instructed the Electrician to provide an estimate for work to be performed at a house in Long Island, New York, later identified as the residence of BALBIR. The job included providing power to the back yard of the residence. The Electrician ultimately met BALBIR at the house. BALBIR described to the Electrician the work BALBIR wanted performed. While at the house, the Electrician noticed other employees of the Contractor performing work, including landscaping and plumbing for BALBIR.

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52. Sometime later, the Electrician was at a Company job site in Brooklyn. While at the site, the Electrician saw BALBIR. The Electrician had not realized BALBIR was an employee of the Company until the Electrician saw BALBIR at the Brooklyn site. The Electrician greeted BALBIR but BALBIR seemed hesitant to respond.

53. On or about August 25, 2017, BALBIR sent a text message to CW-2 identifying a “Punch list” of items BALBIR expected the Contractor to address at BALBIR’s home, as follows:

Concrete Cracked
Grass SOD [sic] my property
Chimney needs to be done
Side and back of house needs to be done
Backyard pavers
Sprinklers
Roth [sic] iron on front patio

54. Based on the above, I believe BALBIR expected the Contractor to provide the materials needed, arrange for the work to be performed, and pay for the items listed on the “punch list”.

55. On or about August 29, August 30, and September 19, 2017, BALBIR and CW-2 had the following text message exchange:

BALBIR: Need a split unit added to that list as well [CW-2]. That would include running the 220V

CW-2: Ok

BALBIR: And fence. Forgot that as well.

CW-2: What do u mean?

CW-2: U don’t want to do the France (sic) anymore

BALBIR: No I forgot I need a fence as well

BALBIR: Didn’t have that in the list

CW-2: Ok

BALBIR: Did you order the fence ?

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CW-2: Didn't know u picked a fence out
BALBIR: Privacy .. tan colored .. we spoke about it

56. The following month, on or about October 17, 2017, BALBIR forwarded to CW-2, via text message, an invoice, dated October 10, 2017, from a fencing company.

57. Based on the above, I believe BALBIR was again identifying items at his residence he expected the Contractor to pay for including a heating or cooling unit (“a split unit”) and a fence (“I need a fence as well”).

58. A review of financial records obtained during the investigation revealed the Contractor paid more than \$100,000 to one of its regular sub-contractors (“Sub-Contractor-2”) for work performed at BALBIR’s residence between 2017 and 2018. The financial records include checks written from the Contractor’s bank account which contain memo entries identifying BALBIR’s address. When interviewed, Sub-Contractor-2 confirmed s/he performed work at BALBIR’s residence which was paid for by the Contractor.

59. In addition, on or about September 20, 2017, an approximately \$2 million “Work Authorization” for a window-replacement and façade-repair project in Brooklyn, New York was approved by the Company for the Contractor. The Work Authorization was approved by BALBIR, identified as the “Senior Project Manager” for Facilities, Assets, and Project Management, and another employee identified as a Procurement Representative. The Work Authorization was countersigned by CW-1. The performance period of the Work Authorization was September 2017 to July 2018.

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60. Similarly, on or about January 9, 2018, an approximately \$1.5 million Work Authorization for canopy repairs and building encapsulation at the same location in Brooklyn, New York was approved by the Company for the Contractor. The Work Authorization was also signed by BALBIR and a Procurement Representative for the Company and countersigned by CW-1 for the Contractor. The performance period of the Work Authorization was January 2018 to March 2019. Notably, as described above, during 2017 and 2018, the Contractor paid tens of thousands of dollars in bribes to BALBIR in the form of work performed at BALBIR's personal residence.¹⁰

61. In addition to having solicited things of value directly from the Contractor, BALBIR also attempted to have the Contractor inflate a bill the Contractor submitted to the Company to facilitate a bribe payment.

62. On or about September 28, 2020, BALBIR met with CW-1 at the Contractor's office, located in Long Island, New York. Prior to the meeting, the Contractor provided BALBIR with a change order which requested \$1,008,312 from the Company for work performed by the Contractor. During the meeting, which was recorded by CW-1 at the direction of the FBI, BALBIR provided a copy of a change order to CW-1. However, the copy of the change order provided by BALBIR contained handwritten notes which indicated CW-1 should inflate the amount request to \$1,088,312 instead of \$1,008,312 – adding \$80,000 to the amount the Contractor was seeking from the Company. Based on the investigation to date, I believe BALBIR was directing the Contractor to inflate the change order by \$80,000 to facilitate the payment of a bribe to BALBIR.

¹⁰ The investigation has also identified instances in which the Contractor participated in competitive bid processes for work with the Company and was not awarded the work.

d. RICARDO GARCIA

63. The defendant RICARDO GARCIA regularly communicated with CW-2 to arrange the payment of bribes through the purchase of personal items using credit cards issued in the Contractor's name and paid for by the Contractor. For example:

64. On or about September 12, 2017, GARCIA and CW-2 had the following text message exchange:

GARCIA: Hey Bro ... hope all is well ... can I use the card for \$1500?
CW-2: Yea no problem
GARCIA: Ok .. thank you

65. On or about October 23, 2017, GARCIA and CW-2 had the following text message exchange:

GARCIA: [CW-2], can I use the card ending in 0420?
CW-2: Not sure let me check we had to cancel one the other day for fraud
GARCIA: Really ... dam ... ok
CW-2: How much did u need to put on it that card is ok
GARCIA: 2k
CW-2: Ok
GARCIA: Ok thanks

66. A review of financial records obtained during the investigation reveals that the Contractor paid various personal expenses for GARCIA. Notably, in or about and between August 2015 and April 2019, the Contractor made payments of college tuition totaling more than \$30,000 for a family member of GARCIA.

67. On or about February 25, 2018, GARCIA sent CW-2 a text message which read: "[CW-2], below is the information for the Dubai trip." The message included images of airlines reservations for two individuals in April 2018 from Newark to Dubai in the amount of \$4,451.04 and hotel reservation information for a ten-night hotel stay in Dubai for two individuals at the cost of \$1,934 per person.

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68. Based on the above, I believe GARCIA was asking CW-2 to pay for GARCIA's personal travel to Dubai. Records obtained during the investigation reveal various personal travel expenses were paid by the Contractor on behalf of GARCIA, including this travel to Dubai.

69. GARCIA also exchanged text messages with CW-2 relating to cash bribes he sought from the Contractor. For example:

70. On or about November 14, 2017, GARCIA and CW-2 had the following text message exchange:

GARCIA: With [family member] and didn't want to ask you with her next to me..
can you bring 3500 when you come on Thursday
CW-2: Ok no problem
GARCIA: Ok tsk [sic]

Based on the above, I believe GARCIA was asking CW-2 to provide a cash bribe payment in the amount of \$3,500. Both CW-1 and CW-2 confirmed having paid GARCIA cash bribes.

e. JEVAN SEEPAUL

71. The defendant JEVAN SEEPAUL regularly communicated with CW-1 and CW-2 to arrange the receipt of cash and other bribes. SEEPAUL also has facilitated bribe payments for both himself and BALBIR via text message.

72. For example, on or about February 15, 2017, SEEPAUL and CW-1 had the following text message exchange:

SEEPAUL: Did you guys meet with Dev
CW-1: Yes this morning all good
SEEPAUL: Ok I had to talk to him
CW-1: Yeah lk [sic] he was weird... phones had to be off
SEEPAUL: Wanna make sure no other companies come in
SEEPAUL: He's paranoid
CW-1 : Yes ik [sic] he's nuts
CW-1: We don't need competition

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SEEPAUL: Ok so I'm making sure he's putting in fluff for us all
CW-1: Ok

73. Based on the above, I believe SEEPAUL was inquiring about a meeting between CW-1 and BALBIR ("Dev"). I further believe that SEEPAUL was communicating that BALBIR was concerned about the meeting being surveilled or overheard ("he was weird... phones had to be off"). I further believe CW-1 was indicating his desire for the Contractor to avoid any competition for Company's work ("[w]e don't need competition"). I also believe that SEEPAUL was indicating his agreement with this idea ("ok") and was further indicating his intent to work with BALBIR to ensure the proposed work include enough funds so that CW-1 could make bribe payments to BALBIR and SEEPAUL ("so I'm making sure he's putting in fluff for us all").

74. On or about June 8 and June 11, 2017, SEEPAUL and CW-1 had the following text message exchange pertaining to a cash bribe:

SEEPAUL: If you could hit me off with something I'd appreciate it.
Leaving for Thailand Tuesday.
CW-1: I'll try to get something by weekend

CW-1: Where you at? Got something
SEEPAUL: Can we meet tomorrow
CW-1: In am early or pick up from my house in [town where CW-1's house was located]
SEEPAUL: Time
SEEPAUL: I'll pick up in box
SEEPAUL: [town where CW-1's house was located]
CW-1: [CW-1's home address provided]
CW-1: Garage [CW-1's garage door code provided]
SEEPAUL: Cool

SEEPAUL: I got it thanks
CW-1: Np

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75. Based on the above, I believe SEEPAUL was seeking a bribe payment from CW-1 in advance of travel (“If you could hit me off with something, I’d appreciate it”).¹¹ I further believe that CW-1 arranged for SEEPAUL to pick up cash at CW-1’s residence (“pick up from my house”) and SEEPAUL subsequently confirmed his receipt of the funds (“I got it thanks”).

76. On or about August 22, 2017, SEEPAUL sent the following text message to CW-2: “[d]id [Contractor representative] order the fence for my place?”

77. Based on the above, I believe this text message related to SEEPAUL’s request for the Contractor to pay for fencing at SEEPAUL’s residence.

78. On or about September 1, 2017, SEEPAUL sent a text message to CW-1 which read, in relevant part: “Hope you enjoy the weekend. I wished that I could have hosted something, but it seems there’s an issue with [Sub-Contractor-2] and you. Hopefully my yard can be finished and I won’t have to send this uncomfortable message again. Enjoy the weekend and stay safe.”

79. The day before, on August 31, 2017, Sub-Contractor-2 sent a text message to CW-1, stating “Can you please cut a chck [sic] for 20 for Jev’s. I want to finish the backyard up...”

80. Based on the above, I believe SEEPAUL was complaining that Sub-Contractor-2 had failed to complete work at SEEPAUL’s (“Jev’s”) residence in the time frame sought by SEEPAUL due to an issue between CW-1 and Sub-Contractor-2, likely a

¹¹ Travel records obtained during the investigation reflect that on June 13, 2017, SEEPAUL traveled from the United States to Doha, Qatar, returning on June 25, 2017. I have confirmed Doha is used as a stopover for U.S. airline passengers en route to Thailand.

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failure of CW-1 to pay Sub-Contractor-2. A review of financial records revealed that, on or about September 5, 2017, a check for \$20,000 was written from a bank account of the Contractor and made payable to Sub-Contractor-2. The memo line of the check contained a reference to SEEPAUL's home address. Additional financial records obtained during the investigation revealed the Contractor paid Sub-Contractor-2 approximately \$100,000 for work performed at SEEPAUL's residence during 2017, including the \$20,000 check referenced above.

V. BALBIR's Attempt to Obstruct the Investigation

81. Beginning in or about January 2020, a federal grand jury sitting in the United States District Court for the Eastern District of New York began investigating various employees and former employees of the Company in connection with the potential bribery and extortion scheme described herein.

82. On or about October 15, 2020, FBI special agents conducted a voluntary interview of the defendant DEVRAJ BALBIR outside BALBIR's residence in Long Island, New York. During the interview of BALBIR, the agents asked him questions about the Company and the Contractor.

83. Two days after the interview, on or about October 17, 2020, the defendant DEVRAJ BALBIR attempted to tamper with CW-1 by, among other things, encouraging him to not cooperate with law enforcement agents and to provide a false explanation about the true source of funds used to pay for work performed at BALBIR's residence. The conversation was recorded by CW-1 at the direction of the FBI. During the meeting, BALBIR requested that CW-1 lift CW-1's shirt and turn in a circle to see if CW-1 was wearing a recording device.


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84. Based on the above, I believe that the defendant DEVRAJ BALBIR was enlisting CW-1's assistance in obstructing federal investigators by requesting that CW-1 provide false information to investigators.

CONCLUSION

WHEREFORE, your affiant respectfully requests that arrest warrants be issued for the defendants RICHARD ZAVADA, PATRICK MCCRANN, DEVRAJ BALBIR, also known as "Dev," RICARDO GARCIA," also known as "Rick," and JEVAN SEEPAUL, so that they may be dealt with according to law. I further request that this affidavit and the arrest warrants be filed under seal as disclosure of this application would give the targets of the investigation an opportunity to destroy evidence, change patterns of behavior, notify confederates and flee from or evade prosecution.



KENNETH HOSEY
Special Agent, Federal Bureau of Investigation

Sworn to before me this
14th day of June, 2021
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Marcia M. Henry

THE HONORABLE MARCIA M. HENRY
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK

ATTACHMENT B

Keri Sweet Zavaglia
U.S. General Counsel



June 18, 2021

VIA ELECTRONIC MAIL

Robert Rosenthal, General Counsel, New York State Department of Public Service
(robert.rosenthal@dps.ny.gov)

Re: Complaint filed by the U.S. Attorney's Office EDNY June 17, 2021, in U.S. v. Zavada et al.

Mr. Rosenthal,

On June 17, 2021, five former National Grid employees were arrested and charged with various federal offenses relating to fraud and bribery in downstate New York. These arrests result from an investigation by the U.S. Attorney's Office Eastern District of New York. National Grid has been fully cooperating with investigators, is not the target of the investigation, and is the victim of the criminal conduct. The allegations are that the defendants intentionally evaded our procurement controls and processes and received kickbacks that include cash, home improvements and gifts. All the defendants were employed in National Grid's facilities department, which is responsible for activities such as building maintenance, landscaping, paving, fencing and snow removal. The criminal activity related to contracts for snow removal and building maintenance services, among others. We are not aware of evidence to suggest the illegal behavior related to work associated with our gas, electric, or customer assets.

While neither the complaint nor the press release issued by the U.S. Attorney's Office names National Grid, we acknowledge that these are our former employees and we take this matter extremely seriously.

National Grid has zero tolerance for non-compliance and the criminal acts of these former employees do not reflect the hard work and dedication of the many thousands who serve our customers. We are committed to transparency and have been conducting an internal investigation to identify any deficiencies or opportunities to strengthen controls to avoid any future recurrence. We will share the results of that investigation upon completion. We are proactively calling our key stakeholders to inform them of this matter, reiterate our commitment to operating with the highest of integrity, and assuring that our customers will incur no costs in connection with this incident.

Regards,

A handwritten signature in black ink that reads "Keri Sweet Zavaglia".

Keri Sweet Zavaglia

cc: Rudolph Wynter, National Grid President New York