



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

OCT 24 2019

1200 New Jersey Avenue, SE.

Washington, DC 20590

In Reply Refer to: HCR-20  
DOT# 2019-0327

[REDACTED]

**Subject:** Dismissal of Complaint DOT# 2019-0327

Dear [REDACTED]

This letter is to inform you that the Federal Highway Administration (FHWA) Office of Civil Rights has determined that it will dismiss the above complaint, which alleges violations that may be related to Title VI of the Civil Rights Act of 1964, the U.S. Department of Transportation (USDOT) Title VI implementation regulations at 49 C.F.R. Part 21 and/or FHWA's Title VI regulations at 23 C.F.R. Part 200 (hereinafter Title VI). Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance.

To be accepted for investigation, a complaint must meet the jurisdictional requirements provided by 49 C.F.R. § 21.11, as well as the legal standards discussed in the U.S. Department of Justice Title VI Legal Manual. First, complaints must be filed within 180 calendar days of the alleged discriminatory act, unless the time for filing is extended by FHWA. Second, the matters must concern recipients of federal financial assistance for a program or programs authorized under a law administered by FHWA. Finally, the complaint must describe an alleged discriminatory act or acts that, if true, would fall under FHWA's jurisdiction and potentially violate FHWA's Title VI regulations.

In two separate complaints filed with the FHWA, you allege the Florida Department of Transportation (FDOT) violated Title VI by intentionally discriminating against you and your firm in FDOT's administration of your firm's prequalification status. First, you allege FDOT refused to correct your firm's Small Business designation on the Procurement Office Pre-qualified Consultants web site. Second, you allege FDOT removed your firm from its qualified consultants list and did not accept your request to be listed as "pending" in the public list.

After careful consideration, FHWA has determined the allegations and facts in your complaint do not meet the minimum criteria under which FHWA could establish a case of disparate treatment under Title VI. The available information is insufficient to show contemporaneous statements from decision-makers that expresses discriminatory intent based on race, color, or national origin. Likewise there is insufficient information to support a claim that other, similarly situated firms with owners of a different race, color, or national origin received more favorable treatment than your firm. For these reasons, this complaint will be dismissed by FHWA and closed with no further action.

If you have any questions, please contact Nichole McWhorter at (202) 366-1396.

Sincerely,

A handwritten signature in black ink that reads "Peggine N. McWhorter". The signature is written in a cursive style with a large initial "P".

Nichole McWhorter  
Title VI Team Leader  
Office of Civil Rights

cc: James Christian, Division Administrator, FHWA FL Division Office  
David Hawk, Chief Operating Officer, FHWA FL Division Office  
Carey Shepherd, Civil Rights Program Coordinator, FHWA FL Division Office  
Jim Esselman, Senior Attorney-Advisor, FHWA Office of Chief Counsel  
Yvette Rivera, Associate Director, Equal Employment Opportunity Programs Division,  
Departmental Office of Civil Rights  
Kevin Resler, National Title VI Program Coordinator, FHWA Office of Civil Rights