



FEB 13 2020

In Reply Refer to: HCR-20
DOT# 2020-0051

[REDACTED]

Subject: Dismissal of Complaint DOT# 2020-0051

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.

You allege that Superior Construction (Superior), a prime contractor working for the Tennessee Department of Transportation (TDOT), intentionally discriminated against you and your company, [REDACTED] on the basis of race. You allege that you had disagreed with Superior's interpretation of your subcontract terms. Then, on May 30, 2019, you allege that you and a Superior Manager argued at the jobsite about [REDACTED]'s performance, and the Manager used a racial slur in reference to you and your employees. Finally, you allege that Superior terminated its subcontract with your company for the project several days after the argument.

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 that the stray remark from a Superior employee described in your complaint would constitute adequate evidence of discriminatory intent to terminate your firm because of race, color, or national origin. For these

reasons, this complaint will be dismissed by FHWA and closed with no further action regarding Title VI.

However, the allegations in your complaint also raise issues regarding the Disadvantaged Business Enterprise (DBE) program. As such, your complaint will be referred to the DBE Team in the FHWA Office of Civil Rights for consideration under the DBE regulations.

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

Sincerely,

Nichole N McWhorter

Nichole McWhorter
Title VI Team Leader
Office of Civil Rights

cc: Pamela Kordenbrock, Division Administrator, FHWA TN Division Office
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