



November 9, 2018

Jodi Petersen  
Civil Rights Program Manager  
FHWA Washington Division  
711 S. Capitol Way, Suite 501  
Olympia, WA 98501-1284

Re: Title VI Complaint  
WSDOT OEO Complaint #: 18-09-06  
(b) (6) Complaint #: 2018-1

Dear Ms. Petersen:

Enclosed is the Washington State Department of Transportation, Office of Equal Opportunities' (WSDOT OEO's) preliminary determination in connection with a formal Title VI Complaint, received by the (b) (6) on August 14, 2018, from (b) (6)

Enclosed are:

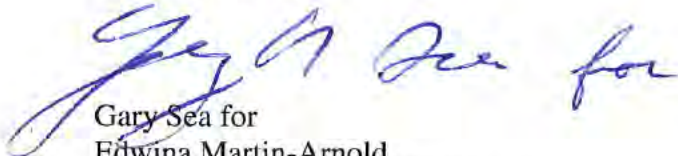
1. (b) (6) complaint;
2. copy of letter notifying (b) (6) of the referral to FHWA;
3. the WSDOT OEO's preliminary determination letter to (b) (6), prepared in connection with this complaint; and
4. the investigation file.

Pursuant to FHWA regulations, the FHWA will review the documentation and render a final decision as to whether the discrimination alleged in (b) (6) complaint is covered under Title VI of the Civil Rights Act of 1964.

FHWA  
November 9, 2018  
Page 2 of 2

If this office can be of further assistance to you or you have any questions, please contact me as indicated below.

Sincerely yours,

A handwritten signature in blue ink that reads "Gary Sea for". The signature is written in a cursive style.

Gary Sea for  
Edwina Martin-Arnold  
Assistant Title VI Coordinator  
WSDOT OEO  
(360) 705-7089  
[MartinE@WSDOT.WA.GOV](mailto:MartinE@WSDOT.WA.GOV)

EMA:gs  
Enclosures

cc: (b) (6)  
Bill Preston, Local Programs Engineer, South Central Region



**Washington State  
Department of Transportation**

Transportation Building  
310 Maple Park Avenue S.E.  
P.O. Box 47300  
Olympia, WA 98504-7300  
360-705-7000  
TTY: 1-800-833-6388  
[www.wsdot.wa.gov](http://www.wsdot.wa.gov)

November 9, 2018

(b) (6)

Re: Title VI Complaint  
WSDOT OEO Complaint #: 18-09-06  
(b) (6) Complaint #: 2018-1

Dear (b) (6)

Enclosed is the Washington State Department of Transportation, Office of Equal Opportunities' (WSDOT OEO's) preliminary determination in connection with your formal Title VI Complaint, received by the Benton-Franklin Council of Governments (BFCG) on August 14, 2018.

Your complaint, this letter, and the investigation file are being forwarded to the Federal Highway Administration. The FHWA will conduct a review of your complaint, the investigation file, and WSDOT OEO's findings, and will render a final decision as to whether the discrimination alleged in your complaint is covered under Title VI of the Civil Rights Act of 1964.

If this office can be of further assistance to you or you wish to discuss this matter prior to being contacted by the FHWA, you may contact me as indicated below.

Sincerely yours,

Gafy Sea for  
Edwina Martin-Arnold  
Assistant Title VI Coordinator  
WSDOT OEO  
(360) 705-7089  
[MartinE@WSDOT.WA.GOV](mailto:MartinE@WSDOT.WA.GOV)

EMA:gs  
Enclosures

cc: Jodi Petersen, FHWA Washington Division, Civil Rights Program Manager  
(b) (6)  
Bill Preston, Local Programs Engineer, South Central Region

November 8, 2018

(b) (6)

Re: Title VI Complaint

Dear (b) (6),

This letter is written in response to your complaint filed under Title VI of the 1964 Civil Rights Act, received by the Benton-Franklin Council of Governments (BFCG) on August 14, 2018.

For a Title VI violation to occur, there must be evidence established by the preponderance standard that a person has been “excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” (42 U.S. Code § 2000d) because of their race, color, national origin, sex, age, disability, income or Limited English Proficiency.

The Washington State Department of Transportation’s Office of Equal Opportunity (WSDOT OEO) has jurisdiction because BFCG receives federal funding from the Federal Highway Administration (FHWA) and the Federal Transportation Administration (FTA) through WSDOT’s State Transportation Improvement Program (STIP). As your Title VI complaint was filed against BFCG, the complaint was forwarded to the WSDOT Office of Equal Opportunity (OEO) for investigation. WSDOT OEO has jurisdiction to conduct the investigation pursuant to 23 C.F.R. § 200(b)(3) and 49 C.F.R. § 21.

Based on the information provided and our investigation, we have found insufficient evidence to substantiate a Title VI violation. This is a preliminary finding and subject to review by FHWA. The specific reasons for this finding are addressed below.

### **Background**

- On April 18, 2018, you initially visited BFCG to enquire about obtaining a microloan to help finance your business, Balancing Positions, an alternative

dispute resolution service. On that visit, you spoke with Brian Malley, BFCG Executive Director, and he referred you to Stephanie Seamans, BFCG Community and Economic Development Manager.

- On April 24, 2018, you met with Ms. Seamans and Fatima Traore, BFCG Economic Development Coordinator, to discuss your loan application. Ms. Traore emailed you an application package on April 24, 2018 after the meeting.
- It was not until July 19, 2018, three months later, that you dropped off your loan application package at BFCG's offices. The loan application form, however, was missing from the package, and Ms. Traore re-sent you her email of April 24, 2018, with the documents required to submit your application.
- On July 20, 2018, your completed loan application and supporting documentation were received by BFCG. Your loan application was then forwarded to a BFCG Loan Officer for review.
- On or around July 27, 2018, BFCG's Loan Officer reviewed your loan application with its supporting documents. He also analyzed the local competitive environment. The Loan Officer determined that your cash flow and debts, as well as the projected volume of clientele, would likely not support a revenue stream adequate to repay the loan. He therefore recommended that your application be denied.
- On July 30, 2018, you were advised of the Loan Officer's decision by Ms. Traore. Ms. Traore also indicated that she would like to explain the Loan Officer's decision to you in more detail when you came by BFCG's offices to pick up your documents.
- On July 31, 2018, you met with Ms. Seamans and Ms. Traore to discuss your application. Your interaction with Ms. Seamans at the July 31, 2018 meeting was in part the subject of your August 14, 2018 complaint (see below). You indicate you felt offended by Ms. Seamans's alleged behavior. While Ms. Traore attempted to de-escalate the situation, it appears you left the meeting in an emotionally distraught state.
- On August 3, 2018, and on August 6, 2018, you provided additional documentation to support your loan application, which was forwarded to the same BFCG Loan Officer who conducted the initial review.

- Later in the week of August 6, 2018, after reviewing the additional documentation you provided, the Loan Officer again recommended that your loan application be denied.

### **The Complaint**

On August 14, 2018, you filed a Title VI Discrimination Complaint with BFCG, alleging discrimination on the basis of color at the meeting on July 31, 2018 with Stephanie Seamans and Fatima Traore.

You allege in your complaint that at the July 31, 2018 meeting with Ms. Seamans and Ms. Traore, Ms. Seamans made derisive comments about your skin color and behaved in what you perceived to be an aggressive manner.<sup>1</sup> You also allege that Brian Malley, BFCG Executive Director, attempted to trivialize your discrimination concerns in subsequent communications with you. You expressed concern that the behavior and biases of BFCG staff would interfere with the objective review of your loan application. To the complaint, you attached a series of emails between you and BFCG staff to support your allegations.

On August 16, 2018, the complaint was forwarded to the WSDOT OEO for investigation.

### **The Investigation**

The WSDOT OEO Investigation was conducted by Janet Sharp, OEO Title VI Program Specialist. Further investigative support was provided by Breanne Higginbotham, OEO Program Specialist, and several follow-up interviews were conducted by Edwina Martin-Arnold, OEO Assistant Title VI Coordinator.

As part of the Investigation, the following documents were reviewed:

- (1) Your complaint with supporting attachments; and
- (2) Additional email communications provided by BFCG.

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<sup>1</sup> In your complaint, you specifically state that “Stephanie Seamans referenced my ‘dark skin’ in an aggressive manner and made the statement ‘My daughters skin is just as dark as yours’”. You further state that “While making the statement Stephanie exhibited what I perceived as aggressive[sic] behavior. Stephanie rolled her eyes every time I attempted to speak and pointed her right pointer towards me while making her statements about my skin.”

Interviews were also conducted with you and the following BFCG staff:

- (1) Stephanie Seamans; and
- (2) Fatima Traore.

The July 31, 2018, meeting between you, Ms. Seamans, and Ms. Traore was discussed in each interview.

In her interview, Ms. Traore said she and Ms. Seamans had attempted to explain to you the reasons for the Loan Officer's denial of your loan application, but it appeared you did not accept their explanation. Ms. Traore said you asked to clarify why you were a good candidate for the loan, and both Ms. Traore and Ms. Seamans agreed to listen. You then described your personal challenges, including your status as a minority.

Ms. Seamans corroborated much of what Ms. Traore said in her interview.

You, Ms. Traore, and Ms. Seamans all agree in your interview statements that at the July 31, 2018 meeting, Ms. Seamans used language to the effect that she, Ms. Seamans, has a child with the same skin tone as your skin tone. As you are aware, Ms. Seamans is Caucasian, while both you and Ms. Traore are Black.

While Ms. Seamans and Ms. Traore believe that Ms. Seamans's comment was made in an attempt to build understanding, you perceived Ms. Seaman's comment to be a racial slur.

### **Findings**

Addressing separately the two concerns expressed in your complaint:

1. That your loan application could not be objectively reviewed because of the behavior and biases of Ms. Seamans, Ms. Traore, and Mr. Malley.
  - The initial decision to deny your loan application was made on or around July 27, 2018, before the July 31, 2018 meeting with Ms. Seamans and Ms. Traore took place. Your interaction with Ms. Seamans at the July 31, 2018 meeting could have had no effect on the decision.
  - The decision to deny your loan application was made independently by BFCG's Loan Officer, whom you never met. Neither Ms. Seamans, Ms. Traore, nor

Mr. Malley were involved in the Loan Officer's recommendation to deny your loan application.

- While you provided additional documentation to support your application on August 3 and August 8, 2018—after the July 31, 2018 meeting—the additional documentation was immediately forwarded to BFCG's Loan Officer. Neither Ms. Seamans, Ms. Traore, nor Mr. Malley were involved in the Loan Officer's subsequent recommendation to deny your loan application.
  - Nothing in the evidence suggests that the Loan Officer's recommendation to deny your loan application—neither the initial recommendation, nor his recommendation subsequent to receiving additional documentation from you—was made on any basis other than an analysis of the local competitive environment and the documentation you provided.
2. That you were subjected to discrimination because of your skin color at the July 31, 2018 meeting with Stephanie Seamans and Fatima Traore, and that your discrimination concerns were trivialized by Brian Malley in subsequent communications.
- While you state that you were offended by Ms. Seamans's comment regarding skin color, from the totality of the evidence from correspondence and interview statements, Ms. Seamans's comment is insufficient to substantiate a Title VI violation.
  - From the email communications provided by you and Mr. Malley, it appears that Mr. Malley took your complaint seriously. There is no evidence to suggest that he trivialized your discrimination concerns.

After review of the documentation indicated above, and conducting interviews with you and BFCG staff, we have determined that the behavior and statements of BFCG staff provide insufficient basis to substantiate discrimination.

These findings are preliminary and subject to review by the FHWA Headquarters, Office of Civil Rights (FHWA HCR). Your complaint, this letter, and the investigation file will be forwarded to FHWA HCR. FHWA HCR will conduct a review of your complaint, the investigation file, and WSDOT OEO's findings, and will render a final decision as to whether the discrimination alleged in your complaint is covered under Title VI of the Civil Rights Act of 1964.

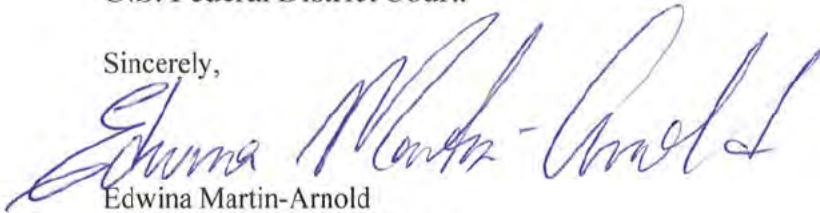
(b) (6)

November 8, 2018

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Once FHWA HCR has made a final decision regarding your complaint, there are no further administrative appeals available to you. If you do not agree with FHWA HCR's final decision, you may file an appeal of that decision with the appropriate U.S. Federal District Court.

Sincerely,

A handwritten signature in blue ink, appearing to read "Edwina Martin-Arnold".

Edwina Martin-Arnold  
Assistant Title VI Coordinator  
WSDOT OEO

EMA:gs  
Enclosures

cc: Jodi Petersen, FHWA Washington Division, Civil Rights Program Manager

(b) (6)

Bill Preston, Local Programs Engineer, South Central Region

## Title VI Complaint

(b) (6)

(b) (6) Complaint #: 2018-1  
WSDOT OEO Complaint #: 18-09-06

### Exhibit Index

Date	From	To	Description	Doc # Start	Doc # End
08-14-2018	(b) (6)	Malley, Brian	Completed Title VI Discrimination Complaint Form with Attachments	0001	0023
08-16-2018	Malley, Brian	Sharp, Janet	Email correspondence between BFCG and WSDOT OEO re complaint investigation with attachments	0024	0027
08-16-2018	Malley, Brian	(b) (6)	Notification letter that complaint was being referred to WSDOT for investigation	0028	0028
04-24-2018	Traore, Fatima	(b) (6)	Email with Microloan Application Documents attached	0029	0040
08-14-2018	Malley, Brian	(b) (6)	<p>Email chains re Title VI Complaint</p> <ul style="list-style-type: none"> <li>• Malley to (b) (6), 5:51 pm Subject: RE: BFCG Title VI Complaint – (b) (6)</li> <li>• (b) (6) to Malley, 2:48 pm Subject: Fwd: BFCG Title VI Complaint – (b) (6)</li> <li>• Malley to (b) (6), 4:48 pm Subject: RE: BFCG Follow-up</li> <li>• (b) (6) to Malley, 1:11 pm Subject: Re: BFCG Follow-up</li> <li>• Malley to (b) (6), 9:39 am Subject: BFCG Follow-up</li> <li>• (b) (6) to Malley, 11:52 pm Subject: BFCG Title VI Complaint – (b) (6)</li> <li>• Malley to (b) (6), 5:51 pm Subject: RE: BFCG Title VI Complaint – (b) (6)</li> <li>• (b) (6) to Malley, 2:48 pm Subject: Fwd: BFCG Title VI Complaint – (b) (6)</li> </ul>	0041	0051

Date	From	To	Description	Doc # Start	Doc # End
08-15-2018	Novakovich, Skip		Email chain Title VI Complaint <ul style="list-style-type: none"> <li>• Novakovich to Malley, 10:15 am Subject: FW: BFCG Follow-up</li> <li>• (b) to Novakovich, 12:02 am Subject: FW: BFCT Follow-up</li> <li>➢ Malley to (b), 08-14-2018, 9:39 am Subject: BFCG Follow-up</li> <li>• Novakovich to (b), 4:29 pm Subject: Microloan Application Documents</li> <li>• (b) to Novakovich, 12:03 am Subject: Fwd: Microloan Application Documents</li> </ul>	0052	0054
08-14-2018	(b)	(b)	1:15 pm, Subject: Fwd: Microloan Application Documents	0055	0055
08-13-2018	(b)	Malley	Email chain Microloan Application Documents <ul style="list-style-type: none"> <li>• (b) to Malley, 12:02 pm Subject: Fwd: Microloan Application Documents</li> <li>• (b) to Malley, 11:19 am Subject: Re: Microloan Application Documents</li> <li>• (b) to Malley, 11:16 am Subject: Re: Microloan Application Documents</li> <li>• Malley to (b), 10:21 am Subject: Re: Microloan Application Documents</li> </ul>	0056	0058
08-11-2018	(b)	Traore	Email chain re Microloan Application Documents <ul style="list-style-type: none"> <li>• (b) to Traore, 2:23 am Subject: Re: Microloan Application Documents</li> <li>• Traore to (b) 08-10-2018, 9:50 am Subject: RE: Microloan Application Documents</li> <li>• (b) to Traore, 08-10-2018, 6:52 am Subject: RE: Microloan Application Documents</li> <li>• Traore to (b) 08-06-2018, 2:11 pm Subject: RE: Microloan Application Documents</li> <li>• (b) to Traore, 08-05-2018, 5:45 pm Subject: Re: Microloan Application Documents</li> <li>• Traore to (b) 08-03-2018, 4:45 pm Subject: RE: Microloan Application Documents</li> </ul>	0058	0069

Date	From	To	Description	Doc # Start	Doc # End
			<ul style="list-style-type: none"> <li>• (b) to Traore, 08-03-2018, 10:28 am Subject: Re: Microloan Application Documents</li> <li>• Traore to (b), 07-31-2018, 4:06 pm Subject: RE: Microloan Application Documents</li> <li>• (b) to Traore, 07-31-2018, 10:23 am Subject: Re: Microloan Application Documents</li> <li>• Traore to (b), 07-30-2018, 2:39 pm Subject: RE: Microloan Application Documents</li> <li>• (b) to Traore, 07-30-2018, 12:55 pm Subject: Re: Microloan Application Documents</li> <li>• Traore to (b), 07-30-2018, 11:12 am Subject: RE: Microloan Application Documents</li> <li>• (b) to Traore, 07-30-2018, 10:58 am Subject: Re: Microloan Application Documents</li> <li>• Traore to (b), 07-30-2018, 10:10 am Subject: RE: Microloan Application Documents</li> <li>• (b) (6) first notified that Loan Officer not recommending approval of loan]</li> <li>• (b) to Traore, 07-30-2018, 8:48 am Subject: Re: Microloan Application Documents</li> <li>• (b) to Traore, 07-20-2018, 1:08 pm Subject: Re: Microloan Application Documents</li> <li>• Traore to (b), 07-20-2018, 10:14 am Subject: RE: Microloan Application Documents</li> <li>• (b) to Traore, 07-20-2018, 9:57 am Subject: Re: Microloan Application Documents</li> <li>• Traore to (b), 07-19-2018, 4:12 pm Subject: Fwd: Microloan Application Documents</li> <li>• Traore to (b), 04-24-2018, 5:08 pm Subject: Microloan Application Documents</li> <li>• (b) to Traore, 04-18-2018, 5:50 pm Subject: Greetings ... I am interested in the RRLF</li> </ul>		

Date	From	To	Description	Doc # Start	Doc # End
08-17-2018	Malley	Sharp	<p>Email Chain re Title VI complaint</p> <ul style="list-style-type: none"> <li>• Malley to Sharp, 12:44 pm Subject: BFCG Title VI Complaint 2018-1</li> <li>• Malley to Sharp, 12:32 pm Subject: BFCG Title VI Complaint 2018-1</li> </ul> <p>Attachment 1: (b) Title VI Complaint Attachment 2: Malley to (b) email, 08-17-2018, 1:35 pm, notification of forwarding complaint to WSDOT Attachment 3: 08-16-2018 Notification letter to (b) (6) that complaint was being referred to WSDOT for investigation</p> <ul style="list-style-type: none"> <li>• Malley to Sharp, 1:41 pm Subject: RE: BFCG Title VI Complaint</li> <li>• Sharp to Malley, 1:38 pm Subject: Re: BFCG Title VI Complaint</li> </ul>	0070	0100
08-17-2018	(b)	Malley	<p>Email chain re Title VI complaint</p> <ul style="list-style-type: none"> <li>• (b) to Malley, 2:15 pm Subject: BFCG Title VI Complaint</li> <li>• Malley to (b), 1:35 pm Subject: BFCG Title VI Complaint</li> </ul>	0101	0102
09-10-2018	Malley	Sharp	<p>Email with attachments re Title VI complaint</p> <ul style="list-style-type: none"> <li>• Malley to Sharp, 9:11 am Subject: RE: BFCG Title VI Complaint 2018-1</li> </ul> <p>Attachment: Malley to Sharp email, 08-17-2018, 12:32 pm, referring case to WSDOT</p>	0103	0105
09-17-2018	Higginbotham	Sharp	<p>Email Chain re Title VI complaint</p> <ul style="list-style-type: none"> <li>• Higginbotham to Sharp, 10:56 am Subject: FW: (b) (6) /Fwd: BFCG Follow-up</li> <li>• (b) to Higginbotham, 09-14-2018, 8:25 am Subject: (b) (6) /Fwd: BFCG Follow-up</li> <li>• (b) to Novakovich, 08-15-2018, 12:02 am Subject: FW: BFCT Follow-up</li> <li>➤ Malley to (b), 08-14-2018, 9:39 am Subject: BFCG Follow-up</li> <li>• Higginbotham to Sharp, 09-17-2018, 10:57 am Subject: FW: (b) (6) /Fwd: BFCG Title VI Complaint - (b) (6)</li> <li>• (b) to Higginbotham, 09-14-2018, 8:27 am</li> </ul>	0106	0115

Date	From	To	Description	Doc # Start	Doc # End
			<p>Subject: FW: (b) (6) /Fwd: BFCG Title VI Complaint - (b) (6)</p> <ul style="list-style-type: none"> <li>➤ (b) (6) to Malley, 08-14-2018, 11:52 pm Subject: BFCG Title VI Complaint - (b) (6)</li> <li>➤ Malley to Ball, 08-14-2018, 5:51 pm Subject: RE: BFCG Title VI Complaint - (b) (6)</li> <li>➤ Ball to Malley, 08-14-2018, 2:48 pm Subject: Fwd: BFCG Title VI Complaint - (b) (6)</li> </ul>		
09-18-2018	Higginbotham	Sharp	11:06 am, Subject: (b) (6) Title VI Complaint [Summary of conversation with (b) (6)]	0116	0116
10-11-2018	Martin-Arnold	Sharp	Email chain re complaint and application Attachment - (b) (6) Title VI Complaint	0117	0142
10-15-2018	Sharp	Martin-Arnold	<ul style="list-style-type: none"> <li>• Sharp to Martin-Arnold, 1:48 pm Subject: RE: Interviews</li> <li>• Martin-Arnold to Sharp, 1:45 pm Subject: Interviews</li> <li>• Sharp to Martin-Arnold, 1:31 pm Subject: Interview Notes</li> </ul>	0143	0144
10-15-2018	Sharp	Martin-Arnold	<ul style="list-style-type: none"> <li>• Sharp to Martin-Arnold, 10:23 am Subject: FW: Request for additional documentation</li> <li>• Seamans to Sharp, 10-13-2018, 5:54 pm Subject: RE: Request for additional documentation</li> <li>• Sharp to Seamans, 10-09-2018, 2:15 pm Subject: Request</li> <li>• Traore to Sharp, 10-12-2018, 2:29 pm Subject: FW: Microloan Application Documents</li> <li>• Traore to (b) (6), 07-30-2018, 10:11 am (10:10 am) Subject: RE: Microloan Application Documents [Ms. (b) (6) first notified that Loan Officer not recommending approval of loan]</li> <li>• (b) (6) to Traore, 07-30-2018, 8:48 am Subject: Re: Microloan Application Documents</li> <li>• (b) (6) to Traore, 07-20-2018, 1:08 pm Subject: Re: Microloan Application Documents</li> <li>• Traore to (b) (6), 07-20-2018, 10:14 am Subject: RE: Microloan Application Documents</li> </ul>	0145	0153

Date	From	To	Description	Doc # Start	Doc # End
			<ul style="list-style-type: none"> <li>• (b) to Traore, 07-20-2018, 9:57 am Subject: Re: Microloan Application Documents</li> <li>• Traore to (b), 07-19-2018, 4:12 pm Subject: Fwd: Microloan Application Documents</li> <li>• Traore to (b), 04-24-2018, 5:08 pm Subject: Microloan Application Documents</li> <li>• (b) to Traore, 04-18-2018, 5:50 pm Subject: Greetings ... I am interested in the RRLF</li> <li>• Peenstra, Rick to Seamans, Stephanie – Email 10-12-2018, 7:16 pm Subject: (b) (6) [Loan Officer's explanation of reason why he recommended loan application be denied]</li> </ul>		
10-16-2018	Traore	Martin-Arnold	<p>Email chain re phone interview on 10-16-18 at 10 am</p> <ul style="list-style-type: none"> <li>• Traore to Martin-Arnold, 4:46 pm Subject: RE: Phone Interview – 10/16/28 – 10 am</li> <li>• Martin-Arnold to Traore, 11:02 am Subject: Phone Interview – 10/16/28 – 10 am</li> </ul>	0154	0155
10-22-2018	Seamans	Martin-Arnold	<p>Email chain re interview</p> <ul style="list-style-type: none"> <li>• Seamans to Martin-Arnold, 4:08 pm Subject: RE: Interview (b) (6)</li> <li>• Martin-Arnold to Seamans, 3:55 pm Subject: Re: Interview (b) (6)</li> <li>• Seamans to Martin-Arnold, 10-19-2018, 3:41 pm</li> <li>• Martin-Arnold to Seamans, 10-19-2018, 2:07 pm</li> </ul>	0156	0158
10-23-2018	Martin-Arnold	Seamans	<p>Email, 11:49 am Subject: Additional Details</p>	0159	0159
	Sharp		Investigator Notes - handwritten	0160	0168
	Sharp		Investigator Notices - transcribed	0168	0173



APR 30 2019

In Reply Refer to: HCR-20  
DOT# 2019-0059

(b) (6)

**Subject:** Acknowledgment of Complaint DOT# 2019-0059

Dear (b) (6)

This letter acknowledges the Federal Highway Administration's (FHWA) Office of Civil Rights received your complaint against the Benton-Franklin Council of Governments (Respondent), which alleged the Respondent violated Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, including Title VI regulations administered by the United States Department of Transportation (49 C.F.R. Part 21) and the Federal Highway Administration (23 C.F.R. Part 200). Your complaint was received by this office on November 13, 2018.

This complaint has been assigned to Kevin Resler, FHWA National Title VI Coordinator – Office of Civil Rights. Mr. Resler will keep you informed regarding the status of your complaint. You may contact him at 202-366-2925 or via e-mail at [kevin.resler@dot.gov](mailto:kevin.resler@dot.gov).

Please be advised that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. Any individual alleging such harassment or intimidation may file a complaint with the FHWA. Any questions or concerns that you have regarding the complaint process and your rights can be discussed with Mr. Resler.

Sincerely,

Nichole McWhorter  
Title VI Team Leader  
Office of Civil Rights

cc: Daniel Mathis, Division Administrator, FHWA WA Division Office

**Melinda Roberson, Assistant Division Administrator, FHWA WA Division Office**  
**Jodi Petersen, Civil Rights Program Manager, FHWA WA 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**



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

1200 New Jersey Avenue, SE,

Washington, DC 20590

In Reply Refer to: HCR-20  
DOT# 2019-0059

JUN 13 2019

(b) (6)

**Subject:** Dismissal of Complaint DOT# 2019-0059

Dear (b) (6)

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 the Benton-Franklin Council of Governments (BFCG) violated Title VI when it denied your application for a business loan as part of its Microloan Program for Women and Minority-Owned Businesses. Specifically, you allege that, after you were denied a loan, a representative from the BFCG who did not take part in the application denial made racially-insensitive remarks to you. You further allege that the former Executive Director of the BFCG minimized your concerns.

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. For this reason, 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, appearing to read "Nichole McWhorter". The signature is fluid and cursive, with a long horizontal stroke at the end.

Nichole McWhorter  
Title VI Team Leader  
Office of Civil Rights

cc: Daniel Mathis, Division Administrator, FHWA WA Division Office  
Melinda Roberson, Assistant Division Administrator, FHWA WA Division Office  
Jodi Petersen, Civil Rights Program Manager, FHWA WA 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



Benton-Franklin Council of Governments

**OFFICE USE ONLY**

Date Received: \_\_\_/\_\_\_/\_\_\_  
Logged By: \_\_\_\_\_

**TITLE VI DISCRIMINATION COMPLAINT FORM**

Victim(s) of alleged discrimination:



Person alleging discrimination, if different from above:

NAME		
STREET ADDRESS		
CITY	STATE	ZIPCODE
DAYTIME TELEPHONE	EMAIL ADDRESS	
RELATIONSHIP TO THE PERSON(S) NAMED AS VICTIM		
BFCG staff member(s), board member(s), consultant(s), or program(s) that allegedly discriminated:		
NAME <i>Stephanie Seamans</i>	PROGRAM	
NAME <i>Brian Malley</i>	PROGRAM <i>Executive Director</i>	
NAME	PROGRAM	
DATE ALLEGED DISCRIMINATION BEGAN <i>July 31, 2018</i>	DATE OF LAST INCIDENT <i>August 13, 2018</i>	

**Basis of Alleged Discrimination**

A complaint must be filled within 180 calendar days of the date the complainant learned of the alleged discrimination. If your complaint is in regard to either alleged discrimination in the delivery of services or in the treatment of you (or the person(s) named as victim(s) by associates or programs of the Benton-Franklin Council of Governments, please indicate below what you believe to be the basis of the alleged discrimination.

Race:  
Color:  
Sex:  
National Origin:



**Explanation**

In the space below please explain as clearly and in as much detail as possible the nature of the discrimination you are alleging (attach additional sheets if necessary). Provide the names of all witnesses, if any, to the alleged discrimination. Attach copies of all written materials pertaining to your complaint.

On July 31, 2018 during a meeting w/ Stephanie Seamans and Fatima Tracore, Stephanie Seamans referenced my "dark skin" in an aggressive manner and made the statement "My daughters skin is just as dark as yours". Stephanie Seamans made this statement as I was sharing my personal narrative as a black woman. This experience personally is personally relevant to my experience as an entrepreneur in Richland Washington. While making the statement Stephanie exhibited what I perceived as aggressive behavior. Stephanie rolled her eyes every time I attempted to speak and pointed her right pointer

By signing below I certify that the statements contained on this form are true to the best of my knowledge.

(b) (6)

Signature

08/14/18  
Date

Original complaint submitted via email on 08/03/18.

Send this form and all attachments to:

Attn: Title VI Coordinator  
Benton-Franklin Council of Governments  
1622 Terminal Drive  
Richland, WA 99352

Documents may be sent via the U.S. Postal Service or faxed to (509) 943-6756.

Towards me while making her statements about my skin. I was so distraught that I abruptly ended the meeting by stating repeatedly I was offended by Stephanie's behavior and excusing myself. I left this meeting sobbing and emotional disturbed. The continual marginalization of my discrimination concerns and attempts to disregard my experience as trivial by the Executive Director, Brian Malley, has made this experience very difficult. I am also concerned ~~these~~ (72) the staff's behavior and biases will impede their ability to ~~to~~ (73) objectively review my application. Also, the agency has demonstrated an unwillingness to communicate in good-faith with me regarding my concerns.

Enclosed are 20 additional pages. The attachment contains email communications between BFCG staff and myself. Please use ~~these~~ materials as a portion of my ~~statements~~ 73 discrimination complaints. My original complaint was made on August 3, 2018.

Signed: 09/14/18