



U.S. Department
of Transportation
Federal Highway
Administration

1200 New Jersey Avenue, SE
Washington, D.C. 20590

March 8, 2012

In Reply Refer To: HCR-40
DOT #2012-0123

(b) (6)

Dear (b) (6)

This is in reference to your complaint of discrimination dated February 27, 2012, against (b) (6) alleging a violation of Title VI of the Civil Rights Act of 1964. Your complaint was received by the Federal Highway Administration (FHWA) Office of Civil Rights on February 28, 2012.

After a thorough review of the information provided, we have determined that your complaint is untimely and cannot be accepted for investigation. The U.S. Department of Transportation's regulation at Title 49, Code of Federal Regulations, Part 21.11(b) states that a complaint must be filed not later than 180 days after the date of the alleged discrimination. The incident cited in your complaint occurred in 2010. Your complaint was received in this office long after the 180-day filing period. However, this does not preclude you from pursuing a private right of action by filing in the appropriate U.S. District Court.

This concludes the FHWA's processing of this matter and no further action will be taken.

Sincerely yours,

Warren S. Whitlock
Associate Administrator for Civil Rights

cc:

Ms. Brenda Nnambi, Director, Office of Equal Opportunity, Washington State Department of Transportation (w/copy of complaint)
Mr. Daniel M. (Dan) Mathis, Division Administrator, HDA-WA (w/copy of complaint)
Ms. Jodi Petersen, Civil Rights Program Specialist, HDA-WA (w/copy of complaint)

DOT # 2012-0123

Williams, Thalia (FHWA)

From: Williams, Thalia (FHWA)
Sent: Monday, March 05, 2012 8:13 AM
To: (b) (6)
Cc: Brown, Darren (FHWA)
Subject: RE: Title 6 Complaint

Tracking: Recipient Read
(b) (6)
Brown, Darren (FHWA) Read: 3/5/2012 10:58 AM

Good morning (b) (6)

This acknowledges the FHWA Office of Civil Rights' Investigations and Adjudications' receipt of your complaint (FOUR separate e-mails). Your complaint will be reviewed and you will receive a decision letter via mail.

Thank you,

Thalia Williams
Equal Opportunity Specialist
Office of Civil Rights (HCR-40)
DOT/Federal Highway Administration
1200 New Jersey Avenue, SE., Room E81-322
Washington, DC 20590
202-366-1595 (office)
202-366-1599 (fax)
thalia.williams@dot.gov


From: FHWA, Civil Rights (FHWA)
Sent: Tuesday, February 28, 2012 4:22 PM
To: Williams, Thalia (FHWA)
Subject: FW: Title 6 Complaint
Importance: High

Please advise.

Thank you.

Eue J. Pickens
Administrative Officer
Federal Highway Administration
1200 New Jersey Avenue, SE., Room E81-320
Washington, DC 20590

202-366-0471
202-366-1599 (Fax)

 Please consider the environment before printing this email

From: (b) (6)
Sent: Monday, February 27, 2012 6:43 PM
To: LaHood, Ray (OST); FHWA, Civil Rights (FHWA)
Cc: Portee, Scheryl (FTA); (b) (6)
Subject: Title 6 Complaint
Importance: High

Please confirm this email.

Make it a very good day!

(b) (6)

Thank you for your referrals!!

CONFIDENTIALITY. Information in this private email message may be privileged, confidential, and protected from disclosure. If you are not the intended recipient, any use, dissemination, distribution, or copying is strictly prohibited. In case of erroneous delivery, please notify the sender at

(b) (6) Thank you in advance for your courtesy and cooperation.



CEO Office Use Only

Case #

Name (Complainant): (b) (6)	Phone: (b) (6)	Name of Person(s) or Division/Region That Discriminated Against You (b) (6)	
Address (Street No., P.O. Box, etc.) (b) (6)		Location and Position of Person (if Known)	
City, State, Zip (b) (6)		City, State, Zip	Date of Alleged Incident 9-28-2010
Discrimination Because of:	<input checked="" type="checkbox"/> Race/Color	<input type="checkbox"/> Disability	<input type="checkbox"/> Disabled Veteran
	<input checked="" type="checkbox"/> Favoritism	<input type="checkbox"/> Sex (Includes Sexual Harassment)	<input type="checkbox"/> Vietnam Era Veteran
	<input checked="" type="checkbox"/> Unfairness	<input type="checkbox"/> National Origin	<input checked="" type="checkbox"/> Marital Status
			<input type="checkbox"/> Sexual Orientation
			<input checked="" type="checkbox"/> Retaliation

Explain as briefly and clearly as possible what happened and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently than you. Also attach any written material pertaining to your case.

THIS COMPLAINT IS ON THE SR520 PONTOON CONSTRUCTION D/BUILD PROJECT IN ABERDEEN WASHINGTON.

9-14-2010 (b) (6) submitted a bid to (b) (6) to perform trucking, dirt disposal and supplying of aggregates on the WSDOT 520 Pontoon Project. (b) (6) is willing and able to perform our scope of work. To this day (b) (6) is the only WSDOT DBE Approved Manufacture for aggregates & waste dirt disposal for this project. Within 45 days of my submitted bid I was told by (b) (6) that my bid was not competitive and they were in negotiations with (b) (6) of Mukilteo, WA for the trucking and dirt disposal. I stressed to (b) (6) that our firm brings more value to the project as a DBE Manufacture than just a trucking firm and would it be possible to use my dump site? (b) (6) mentioned he would pass on my information. I was never contacted by anyone. After (b) (6) started hauling the dirt I found out that are billing (b) (6) by the truck cubic yard and counting dirt disposal towards DBE goals as a DBE trucking firm only. On 6-28-2011 I filled a complaint with OMWBE and WSDOT (see attached) this has been over eight months ago and I still don't have a response. This is DBE fraud and must be stopped.

Several Prime Contractors as well as (b) (6) has a horrible reputation in Washington State when it comes to Mandatory DBE goals on Federal funded projects. They use front DBE's all the time, on a very rare occasion you will see people of color on their jobs especially African-American companies. There are a very few handful of African-American DBE's in this state and it's a damn shame that we have to fight for a job (aka) shut the project down in order to enforce the 1964 civil rights act. Over 2 Billion dollars allocated in Washington State including AARA funds and less that .22% went towards African-American business? **WE NEED HELP!!!!!!**

Attached to this form are FY2010 and FY2011 state expenditures with OMWBE certified and non-certified firms. This clearly shows Washington State's dismal performance in equity and inclusion, the consistent opposition to African-American participation in the economic pie that our tax dollars help to create.

Signature (b) (6)	Date 2-27-2012
----------------------	-------------------

Additional Information

Why do you believe these events occurred?

Favoritism- (b) (6) on all of their projects in Washington State.

In 2003 I performed a job for (b) (6) on the Washington State Convention Center project in Seattle, WA. I did 115 change orders per (b) (6) request and they never paid me! I continue to petition against (b) (6) they are known to run you out of business.

(b) (6) of Mukilteo, Washington is a DBE front created by (b) (6) (a WDBE front prime that graduated). (b) (6) went to college with today's project managers of (b) (6) (b) (6) and (b) (6) this is why they have over 80% of the DBE Trucking jobs in Washington State.

What other information do you think is relevant to our investigation?

(b) (6) is a front DBE firm; they continue to destroy legit DBE firms monthly. (b) (6) invoices (b) (6) by the truck cubic yard (tcy) so they can count dirt disposal fees towards DBE goals. (b) (6) is not a gravel Dealer or Manufacture, only a trucking firm. (b) (6) will not be able to meet the 30 Million dollar DBE goal on this Federal Funded project.

There are no African-American firms working on (b) (6) projects that I know of.

(b) (6) might be giving (b) (6) kick backs.

If this complaint is resolved to your satisfaction, what remedies do you seek?

A contract, compensation for discrimination, rules, regulations and fines that have teeth when the prime violates the 1964 civil rights act.

Debarment of Prime contractors that break the law.

Please list below any persons (witnesses, fellow employees, supervisors, or others) that we may contact for additional information to support or clarify your complaint.

Name	Classification	Address	Telephone Number
------	----------------	---------	------------------



Washington State
Department of Transportation

Disadvantaged Business Enterprise
Approved Manufacturers List

September 13, 2010

For Project:
SR 520 - Medina to SR 202: Eastside Transit and HOV Project
Project #

Firm: (b) (6)
Manufacturer of: Trucking, Importing of all dirt & aggregates, Exporting of all waste dirt, asphalt,
concrete, wood & construction debris.
Bid Date: September 16, 2010

For Project:
SR 520 -- Pontoon Construction Design Build Project

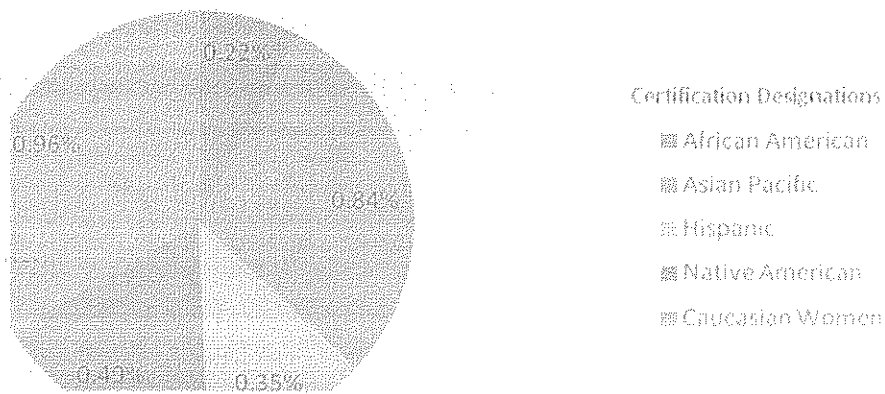
Firm: (b) (6)
Manufacturer of: Trucking, Importing of all dirt & aggregates, Exporting of all waste dirt, asphalt,
concrete, wood & construction debris.
Bid Date: September 14, 2010

FY10 STATE EXPENDITURES WITH OMWBE CERTIFIED & NON-CERTIFIED FIRMS

FY10 TOTAL EXPENDITURES WITH CERTIFIED AND NON-CERTIFIED FIRMS		
	DOLLAR SPEND	PERCENTAGE SPEND
Certified Firms	\$67,235,282	2.87%
Non-Certified Firms	\$2,279,045,155	97.13%
Total	\$2,346,280,437	100%

FY10 EXPENDITURES WITH OMWBE CERTIFIED FIRMS				
OMWBE CERTIFICATION DESIGNATION	# OF CERTIFIED FIRMS USED	M/WBE DOLLAR SPEND ¹	M/WBE PERCENTAGE SPEND ²	TOTAL PERCENTAGE SPEND ³
African American	53	\$5,179,441	7.7%	.22%
Asian Pacific	114	\$19,781,978	29.4%	.84%
Hispanic	46	\$8,185,763	12.1%	.35%
Native American	34	\$11,607,455	17.2%	.49%
Caucasian Women	297	\$22,480,138	33.4%	.96%

Expenditures with Certified Firms



¹Agency spend with OMWBE certified firms

²Percentage of each minority group compared to the total spend with certified firms

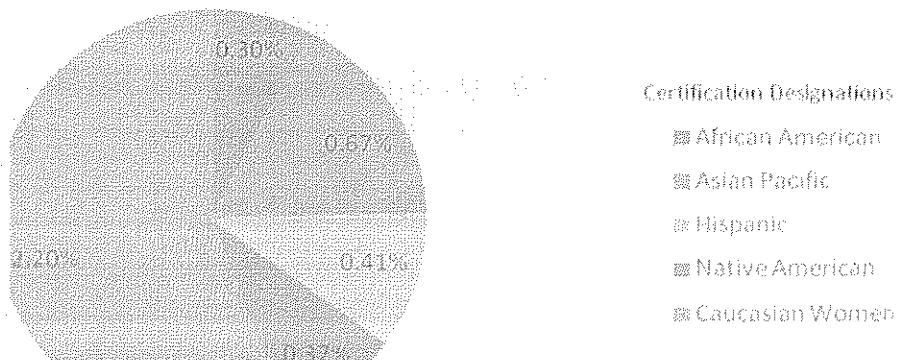
³Percentage of each minority groups compared to the state's total spend with OMWBE certified and non-certified firms

FY11 STATE EXPENDITURES WITH OMWBE CERTIFIED & NON-CERTIFIED FIRMS

FY11 TOTAL EXPENDITURES WITH CERTIFIED AND NON-CERTIFIED FIRMS		
	DOLLAR SPEND	PERCENTAGE SPEND
Certified Firms	\$93,671,040	3.95%
Non-Certified Firms	\$2,277,613,544	96.05%
Total	\$2,371,284,584	100%

FY11 EXPENDITURES WITH OMWBE CERTIFIED FIRMS				
OMWBE CERTIFICATION DESIGNATION	# OF CERTIFIED FIRMS USED	M/WBE DOLLAR SPEND ¹	M/WBE PERCENTAGE SPEND ²	TOTAL PERCENTAGE SPEND ³
African American	66	\$7,044,051	7.51%	0.30%
Asian Pacific	144	\$15,916,304	17%	0.67%
Hispanic	51	\$9,686,497	10.3%	0.41%
Native American	35	\$8,851,365	9.4%	0.37%
Caucasian Women	331	\$52,172,823	55.7%	2.2%

Expenditures with Certified Firms



¹ Agency spend with OMWBE certified firms

² Percentage of each minority group compared to the total spend with certified firms

³ Percentage of each minority groups compared to the state's total spend with OMWBE certified and non-certified firms

OMWBE Directory Profile: (b) (6)

Name: (b) (6)
Business Description: DUMP TRUCKING
NAICS Index Entries: 484220 - DUMP TRUCKING (E.G.; GRAVEL, SAND, TOP SOIL)
Street: (b) (6)
City: MUKILTEO State: WA Zip: 98275
Voice: (b) (6) Fax: (b) (6) E-mail: (b) (6)
Contact: (b) (6)
Owner: (b) (6)
Certification No.: D2F9320267
Washington Cert.: WBE Federal Cert.: DBE
Prime NAICS: 484220
2nd NAICS: 3rd NAICS: 4th NAICS: 5th NAICS: 6th NAICS: 7th NAICS: 8th NAICS:

Copyright 1995-2008BIP Software, Inc. All Rights Reserved.

Print | [Close Window](#)

Subject: Adding to (b) (6) complaint
 From: (b) (6)
 Date: Tue, Jun 28, 2011 2:52 pm
 To: "Jean Wheat" <jwheat@OMWBE.WA.GOV>
 Cc: "John Huff" <HuffJ@wsdot.wa.gov>, Daniel.Mathis@dot.gov, Bob.Ashby@dot.gov

Hello Jean,

Can the investigating officer please pay attention to the NON conforming way (b) (6) is meeting DBE goals on their projects. 1).The 520 pontoon job in Aberdeen Kiewit (prime) contracted (b) (6) to do Trucking, buy aggregates and dispose waste dirt "by the truck cubic yard". (b) (6) does not posses a manufacture NAICS code for gravel sales. (b) (6) is doing this on all of their projects, 2). SR 520 - Medina to SR 202: East-side Transit and HOV Project East-side Corridor Constructors is buying a large quantity of material through (b) (6) 3). SR 28, E. END OF THE GEORGE SELLAR BR bid on 6/23/2011 apparent low prime is KLB const. (b) (6) is listed for \$800,000 of dump trucking for this project (this project does not have \$800,000 of dump trucking on this job) they plan on counting material.

There is another huge hole in the DBE system, there seems to be no OEO tracking of how some DBE's are manipulating their quotes and invoices to primes in order to meet DBE goals. There also is a need for tracking percentage of DBE goals utilized on projects before the job is near completion. My example; I'm working on a design build project, the GC is telling me that their is no availability of DBE's for this job and continues to use non DBE businesses (they are WRONG). I will guarantee you at 90% of completion of this project the GC will write a letter to WSDOT saying they tried. Here is your heads up.

(b) (6)

King County SCS Certification # 1052
 W.S.D.O.T, DBE Approved Gravel Manufacture
 MBE / DBE - D3M9621431 Prime NAICS: 484220
 Trucking-Sand & Gravel Sales-Dump Sites-Statewide
(b) (6)

Thank you for your referrals!!

CONFIDENTIALITY. Information in this private email message may be privileged, confidential, and protected from disclosure. If you are not the intended recipient, any use, dissemination, distribution, or copying is strictly prohibited. In case of erroneous delivery, please notify the sender at (b) (6). Thank you in advance for your courtesy and cooperation.