



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

APR 12 2011

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

In Reply Refer To: HCR-40  
DOT #2009-0061

(b) (6)

Dear (b) (6):

This is in reference to the complaint of discrimination you filed with the Georgia Department of Transportation (GDOT) against (b) (6) (herein after referred to as the respondents) alleging violations of Title VI of the Civil Rights Act of 1964 (Title VI) based on race (African American).

Since the respondents are sub-recipients of Federal-aid funds through the GDOT, your complaint was investigated by the GDOT in accordance with the Federal Highway Administration's (FHWA) complaint processing procedures. State recipients can conduct Title VI investigations of its sub-recipients or contractors and make a recommended finding to the Federal decision-making authority. However, the Department of Justice has determined that a Title VI finding of violation or no violation is a Federal decision that cannot be delegated. All FHWA recipients must submit their proposed dispositions to the FHWA for a final agency decision.

The GDOT has completed its investigation and forwarded its investigative report to the FHWA for review and issuance in accordance with the FHWA's procedures. The evidence submitted by the GDOT shows the following:

**Allegation #1: The respondents, after the job was bid and won, asked your firm to provide a bond on the job.**

- The respondents were awarded the contract for the Bobby Jones Expressway Reconstruction Project on April 27, 2007.
- The respondents awarded a subcontract to (b) (6) on June 29, 2007.
- The contract section entitled, Payment and Performance Bonds, was crossed out on the contract and initialed by you. Therefore, the record shows that the respondents did not require you to have a bond for this contract.



**Allegation #2: On the job site, (b) (6) was asked if it needed help on the project.**

- There is no evidence to show that this question had any type of discriminatory impact on (b) (6) contract with the respondents.

**Allegation #3a: (b) (6) asked for a lead time of at least two weeks in order to get man power and machinery to the site.**

- The contract requires the subcontractor to commence work when directed by the contractor. There is no evidence that the respondents were required to provide two weeks lead time before requiring work on the project.

**Allegation #3b: (b) (6) machine arrived as scheduled with the molds. The mold still sits in the yard uncrated.**

- The respondents stated that they did not require or demand that (b) (6) use such a machine.
- The record shows that the respondents asked (b) (6) to mobilize all necessary equipment and personnel to the job and that they could not wait for the delivery of (b) (6) new curb machine because of the tight schedule required by the project.

**Allegation #4: The respondents created a bogus thief charge directed at one of (b) (6) workers stating he was stealing rebar and put (b) (6) crew and trailer off the secured area.**

- The investigation disclosed that the respondents found an (b) (6) employee with his pickup full of rebar and dowel pins from the respondents' yard. The material was not applicable to any (b) (6) work on the project. The respondents advised (b) (6) that the three employees in the truck would not be welcomed back to the site.
- The record shows that (b) (6) terminated the responsible employee based on information discovered regarding the incident.

**Allegation #5: While you were in the hospital, the respondents asked you if you wanted to accept \$75,000 cash to let another contractor finish (b) (6) contract. After you refused the offer, the respondents came up with another scenario of overpayment of approximately \$68,000.**

- The investigation disclosed that the respondents did make several offers to (b) (6) to release its work on the project.
- There is no evidence of discriminatory motive in the respondents' request for you to accept their offer to release you from the contract.
- There is no evidence that the respondents have required (b) (6) to repay the \$68,000.

**Allegation #6: (b) (6) was terminated from the project while still performing work on the project.**

- Record evidence shows that the respondents had problems with (b) (6) completing work in a timely fashion and with some of its work being rejected by GDOT. As a result of these continued problems, the respondents determined that it was necessary to terminate the contract with (b) (6). The GDOT agreed with this termination and a substitute Disadvantaged Business Enterprise firm was contracted to complete the work.

The evidence provided by the GDOT fails to support the allegation that race was a factor in the respondents' actions toward (b) (6).

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

Sincerely yours,



Brenda F. Armstead  
Director, Investigations and Adjudications



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of Transportation  
**Federal Highway  
Administration**

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1200 New Jersey Avenue, SE  
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In Reply Refer To: HCR-40  
DOT #2009-0061

Mr. Robert C. Chambers  
Attorney  
Smith, Currie, and Hancock, LLP  
Attorneys at Law  
2700 Marquis One Tower  
245 Peachtree Center Avenue, NE.  
Atlanta, Georgia 30303-1227

Dear Mr. Chambers:

This is in reference to the complaint of discrimination filed by (b) (6),  
(b) (6), against your clients (b) (6)  
(b) (6) --- herein after referred to as the respondents) alleging violations of  
Title VI of the Civil Rights Act of 1964 (Title VI) based on race (African American).

Since the respondents are sub-recipients of Federal-aid funds through the Georgia Department of Transportation (GDOT), the complaint was investigated by the GDOT in accordance with the Federal Highway Administration's (FHWA) complaint processing procedures. State recipients can conduct Title VI investigations of its sub-recipients or contractors and make a recommended finding to the Federal decision-making authority. However, the Department of Justice has determined that a Title VI finding of violation or no violation is a Federal decision that cannot be delegated. All FHWA recipients must submit their proposed dispositions to the FHWA for a final agency decision.

The GDOT has completed its investigation and forwarded its investigative report to the FHWA for review and issuance in accordance with the FHWA's procedures. The evidence submitted by the GDOT shows the following:

**Allegation #1: The respondents, after the job was bid and won, asked (b) (6) to provide a bond on the job.**

- The respondents were awarded the contract for the Bobby Jones Expressway Reconstruction Project on April 27, 2007.
- The respondents awarded a subcontract to (b) (6) on June 29, 2007.



- The contract section entitled, Payment and Performance Bonds, was crossed out on the contract and initialed by (b) (6). Therefore, the record shows that the respondents did not require (b) (6) to have a bond for this contract.

**Allegation #2: On the job site, (b) (6) was asked if it needed help on the project.**

- There is no evidence to show that this question had any type of discriminatory impact on (b) (6) contract with the respondents.

**Allegation #3a: (b) (6) asked for a lead time of at least two weeks in order to get man power and machinery to the site.**

- The contract requires the subcontractor to commence work when directed by the contractor. There is no evidence that the respondents were required to provide two weeks lead time before requiring work on the project.

**Allegation #3b: (b) (6) machine arrived as scheduled with the molds. The mold still sits in the yard uncrated.**

- The respondents stated that they did not require or demand that (b) (6) use such a machine.
- The record shows that the respondents asked (b) (6) to mobilize all necessary equipment and personnel to the job and that they could not wait for the delivery of (b) (6) new curb machine because of the tight schedule required by the project.

**Allegation #4: The respondents created a bogus thief charge directed at one of (b) (6) workers stating he was stealing rebar and put (b) (6) crew and trailer off the secured area.**

- The investigation disclosed that the respondents found an (b) (6) employee with his pickup full of rebar and dowel pins from the respondents' yard. The material was not applicable to any (b) (6) work on the project. The respondents advised (b) (6) that the three employees in the truck would not be welcomed back to the site.
- The record shows that (b) (6) terminated the responsible employee based on information discovered regarding the incident.

**Allegation #5: While (b) (6) was in the hospital, the respondents asked him if he wanted to accept \$75,000 cash to let another contractor finish (b) (6) contract. After (b) (6) refused the offer, the respondents came up with another scenario of overpayment of approximately \$68,000.**

- The investigation disclosed that the respondents did make several offers to (b) (6) to release its work on the project.
- There is no evidence of discriminatory motive in the respondents' request for (b) (6) to accept their offer to release him from the contract.

- There is no evidence that the respondents have required (b) (6) to repay the \$68,000.

**Allegation #6: (b) (6) was terminated from the project while still performing work on the project.**

- Record evidence shows that the respondents had problems with (b) (6) completing work in a timely fashion and with some of its work being rejected by GDOT. As a result of these continued problems, the respondents determined that it was necessary to terminate the contract with (b) (6). The GDOT agreed with this termination and a substitute Disadvantaged Business Enterprise firm was contracted to complete the work.

The evidence provided by the GDOT fails to support the allegation that race was a factor in the respondents' actions toward (b) (6).

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

Sincerely yours,



Brenda F. Armstead  
Director, Investigations and Adjudications

cc:

(b) (6)

Mr. Michael G. Cooper, Director, Equal Employment Opportunity Office, GDOT  
Ms. Carol Barnett, Title VI/Environmental Justice Coordinator, Equal Employment Opportunity Office, GDOT  
Mr. Rodney N. Barry, Division Administrator, FHWA (HDA-GA)  
Ms. Vanessa Ross, Civil Rights Specialist, FHWA (HDA-GA)