



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue

Phone: 317 232-5095

Eric Holcomb, Governor

Room N725

Joe McGuinness, Commissioner

January 19, 2022

INDIANA
STATE ETHICS COMMISSION

JAN 19 2022

FILED

Katherine Noel, Chair
Indiana State Ethics Commission
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202

RE: Waiver of Application of 42 IAC 1-5-1 (the "Gift Rule") for Items of Value Received in Relation to the 2022 Indiana Transportation Team Partnering Conference on January 25, 2022.

Chairperson Noel:

Commissioner Joe McGuinness, the appointing authority of the Indiana State Department of Transportation ("INDOT"), has designated authority to me as the agency's ethics officer to waive application of the Gift Rule in individual cases when consistent with the public interest. I am hereby waiving application of 42 IAC 1-5-1 (a) in relation to the receipt of items of value by the INDOT employees identified in the attached Exhibit A by virtue of their participation in the 2022 Indiana Transportation Team ("ITT") Partnering Conference on January 25, 2022. The INDOT employees will be participating in presentations and networking sessions, as well as benefiting from professional development and team building activities. The event will be sponsored and paid for by INDOT, Indiana Constructors, Inc. ("ICI"), and individual ICI members, which are also INDOT vendors. As a trade association for the transportation infrastructure industry in the State of Indiana, ICI has an indirect interest in INDOT contracting opportunities, and a strong incentive to partner with the agency in ethical and mutually advantageous ways. The Indiana Transportation Team (ITT) is a joint-manifestation of this partnership, comprised of a collective of INDOT and industry leaders, created and administered by ICI and the Indiana Department of Transportation. While the typical ITT event consists of a half day work meeting at an ICI or INDOT facility, the 2022 ITT Partnering Conference will be held at the Indiana Convention Center and include food, drink, and professional speakers, sponsored in part by ICI members. As outlined hereinbelow, the content of the event will greatly benefit INDOT employees, and in the taxpaying public, and therefore justifies a waiver of 42 IAC 1-5-1 (a) to allow the attached described employees to receive incumbent items of value paid for by INDOT vendors.

The 2022 Indiana Transportation Team Partnering Conference will be held on January 25, 2022, at the Indiana Convention Center, 100 S. Capitol Ave., Sagamore Ballroom, Indianapolis, Indiana 46225. ICI and ICI members' partial sponsorship of the event includes food, beverages, and professional speakers at an approximate cumulative value of Fifty Dollars (\$50.00) per INDOT attendee. With one hundred sixty-seven (167) INDOT employees in attendance, the total value of items sponsored by ICI and ICI members (i.e. INDOT vendors), to the extent such items benefit INDOT employees specifically, will be approximately Eight Thousand Three Hundred Fifty Dollars (\$8,350).

The 2022 Indiana Transportation Team Partnering Conference is an educational and professional networking event for INDOT and its construction industry stakeholders. It is a unique opportunity for foreman, superintendents, project managers, and company principals representing industry construction partners to engage with INDOT employees, primarily in project leadership positions (mid-level field managers), regarding INDOT processes, projects, and other professional subject matter. The event will include teambuilding activities, professional development, and motivational presentations aimed at fostering a greater working relationship between INDOT field personnel and the individual employees that build roads on behalf of INDOT's private construction partners. The event will include a lunch paid for jointly by INDOT and ICI, and afterhours socialization, featuring hors d'oeuvres and beverage tickets sponsored exclusively by individual ICI members.

The 2022 ITT Partnering Conference will be the single largest meeting of INDOT field personnel and project-level private partners in the history of the Indiana Transportation Team, and likely in the history of INDOT. As such, it is a very unique opportunity for non-executive/director level INDOT employees to socialize and team build with the construction vendors they partner with every day to build Indiana's roads and bridges. Coupled with professional development and teambuilding-oriented motivational speakers, the event will impart experience and technical information that INDOT employees can bring back to their daily work as public servants. The opportunity to build better relationship with private partners will likewise bring better cooperation on INDOT project sites and reflect in the quality of work delivered to the Indiana taxpayer. Furthermore, through networking and professional development, participation in the event will spark technical and process innovation that will translate into improved means and methods on INDOT projects.

For the reasons stated above, the participation of INDOT personnel, in this instance the employees listed in the attached Exhibit A, in events such as the 2022 Indiana Transportation Team Partnering Conference, is hugely beneficial to driving collaboration and inter-stakeholder innovation for INDOT and across INDOT vendors, enhancing INDOT operations, and ultimately bolstering the quality of Department programming and project delivery to the taxpayers of the State of Indiana. Furthermore, the individual professional development that the INDOT and INDOT vendor employees will gain from attendance will be incorporated into their service to INDOT and enhance the quality of their individual work performance. The aggregate benefit of the listed employees' attendance at the 2022 Indiana Transportation Team Partnering Conference, to INDOT and private industry stakeholders, will ultimately enhance the quality of state and federal road construction projects, which is a primary goal of INDOT as a state and federally funded agency.

In fact, Indiana Code 8-23-2- 4.1(4)(A) provides that INDOT is responsible for the "construction, reconstruction, improvement, maintenance, and repair of (state) highways" and Indiana Code 8-23-2- 5(a)(4) imposes upon INDOT the statutory duty in to "evaluate and utilize whenever possible improved transportation facility maintenance and construction techniques." As summarized above, by attending the 2022 Indiana Transportation Team Partnering Conference, INDOT employees will be educated concerning developments in the transportation infrastructure industry and have the opportunity to network with Department vendors concerning new products, design constructability and construction methods, ultimately helping to foster best practices in project management. The employees' attendance at the event will thereby assist in INDOT's furtherance of its statutory prerogative as detailed under Indiana Code 8-23-2- 4.1(4)(A) and help meet the agency's duties under Indiana Code 8-23-2- 5(a)(4).

Therefore, it is my opinion that it is consistent with the public interest for the INDOT employees listed in Exhibit A to attend the 2022 Indiana Transportation Team Partnering Conference on January 25, 2022, and to receive the items of value specified above, even though payment for these items is being made in part by Indiana Constructors, Inc. and ICI member-companies that have a business relationship with INDOT. Based on this finding, I am hereby waiving application of 42 IAC 1-5-1 (a) to allow the employees identified in Exhibit A to accept items of value paid for by ICI and ICI members totaling approximately Fifty Dollars (\$50.00) per person, including professional development, food, and beverages. With one hundred sixty-seven (167) INDOT employees in attendance, the total value of items sponsored by ICI and ICI members, to the extent such items benefit INDOT employees specifically, will be Eight Thousand Three Hundred Fifty Dollars (\$8,350).

If you need additional information or have any questions about this letter, please feel free to contact me at (317) 234-2115 or chserak@indot.in.gov.

Sincerely,

/s/ Christopher Bradley Serak

Christopher B. Serak,
Director of Prequalification &
Construction Compliance
Ethics Officer
Indiana Department of Transportation

