



# INDIANA DEPARTMENT OF TRANSPORTATION

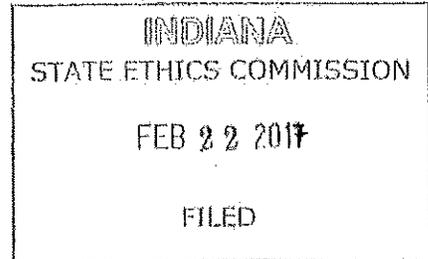
100 North Senate Avenue  
Room Nxxx  
Indianapolis, Indiana 46204

PHONE: (317) xxx-xxxx  
FAX: (317) xxx-xxxx

Eric Holcomb, Governor  
Joe McGuinness, Commissioner

February 22, 2017

Mr. James Clevenger, Chair  
Indiana State Ethics Commission  
315 West Ohio Street, Room 104  
Indianapolis, Indiana 46202



RE: Waiver of Application of 42 I-5-1 (the "Gift Rule") for Certain Items of Value That Will Be Received by INDOT Employees and Special Appointee Attending the ACEC Engineering Excellence Awards Banquet Luncheon to Be Held on March 2, 2017

Dear Mr. Clevenger:

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) for INDOT employees Kimberlee Peters and Eric Banschbach so that they may attend the ACEC Engineering Excellence Awards Luncheon to be held on March 2, 2017.

The ACEC Engineering Excellence Awards Banquet Luncheon will be held at the Indianapolis Marriott North Hotel, 3645 River Crossing Parkway, Indianapolis, IN 46240. The items of value that will be received by the INDOT employees attending the ACEC Engineering Excellence Awards Banquet Luncheon include food and drink.

The \$80 cost for each INDOT employee to attend the ACEC Engineering Excellence Awards Banquet Luncheon will be paid for by the American Council of Engineering Companies of Indiana ("ACEC"), which will use registration fees of its member companies as the source of payment. The value of the luncheon was listed on ACEC's web site. Some ACEC member companies may have a business relationship with INDOT or may seek to influence an action by one or more INDOT personnel in his or her official capacity.

INDOT personnel covered by this waiver will be instructed to not accept any other item of value from ACEC or any other person, if that person may have a business relationship with INDOT or may seek to influence an action by one or more INDOT personnel in his or her official capacity. INDOT personnel also will be informed that the safest course of action is to assume that anyone in the private sector attending the ACEC Engineering Excellence Awards Luncheon might have a business relationship with INDOT.

These two INDOT personnel may participate in a presentation relating to INDOT's receipt of an Honor Award and potential INDOT receipt of the Grand Project Award, which will be announced and awarded at this event. 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."

Mr. James Clevenger  
February 22, 2017  
Page Two

Therefore, it is my opinion that it is consistent with the public interest for these two INDOT personnel to attend ACEC Engineering Excellence Awards Banquet Luncheon to be held on March 2, 2017, and to receive the items of value specified above, even though payment for these items is being made by entities that may have a business relationship with INDOT. Based on this finding, I am hereby waiving application of 42 IAC 1-5-1(a) to the extent previously set forth in this letter.

If you need additional information or have any questions about this letter, please feel free to contact me at 317/232-5411 or at [mtidd1@indot.in.gov](mailto:mtidd1@indot.in.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "M. Tidd". The signature is fluid and cursive, with the first name "M." and the last name "Tidd" clearly distinguishable.

Mark J. Tidd  
Prequalification & Permits Director and Ethics Officer

cc: Jennifer Cooper, Indiana State Ethics Commission Director  
Kimberlee Peters, INDOT  
Eric Banschbach, INDOT