



INDIANA DEPARTMENT OF TRANSPORTATION

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Eric Holcomb, Governor
Joe McGuinness, Commissioner

INDIANA
STATE ETHICS COMMISSION

MAR 07 2018

FILED

March 7, 2018

Mr. James Clevenger, 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 Certain Items of Value To Be Received by INDOT Employees David Boruff and Prakash Patel Visiting the Home Facility of Millerbernd Manufacturing Company from April 17-19, 2018

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. My authority under that designation continues until it is revoked or changed by the current INDOT Commissioner. I am hereby waiving application of 42 IAC 1-5-1(a) for INDOT employees David Boruff (Manager, Traffic Administration) and Prakash Patel (Manager, Traffic Design and Review Group) so that they may visit potential fabricator Millerbernd Manufacturing Company ("Millerbernd") at the company's home facility at 622 6th Street South, Winsted, Minnesota 55395.

Millerbernd is a potential vendor who designs and builds steel traffic sign structures. Millerbernd offered to pay for the INDOT employees' round-trip airfare, hotel for up to two nights, and meals (which meals will be accepted, according to information provided to me by Mr. Brouff, only at the State of Indiana out-of-state daily per diem rate).

The items of value received by these INDOT employees visiting the Millerbernd facility in Minnesota include (1) round-trip airfare between Indianapolis and Minneapolis (valued at up to \$300 per employee, although Mr. Boruff may decline this airfare and use an Indiana state vehicle to make this trip), (2) hotel (valued at up to \$300 per employee), and (3) food/drink (valued at up to a total of \$64 per employee).

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These items of value for INDOT personnel visiting the Millerbernd facility in Minnesota will be paid for by Millerbernd, which may be seeking to influence an action by one or more of these INDOT personnel in his official capacity.

INDOT personnel covered by this waiver are hereby instructed to not accept any other item with greater than nominal value from Millerbernd (other than printed informational material).

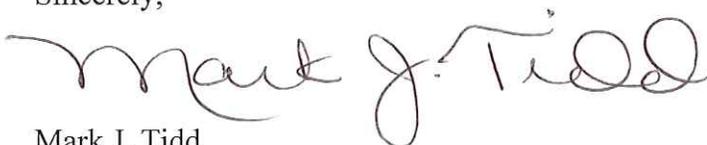
Indiana Code 8-23-2-4.1(4)(A) provides that INDOT is responsible for the “construction, reconstruction, improvement, maintenance, and repair of (state) highways” and Indiana Code 8-23-2-5(a)(4) imposes upon INDOT the statutory duty in to “evaluate and utilize whenever possible improved transportation facility maintenance and construction techniques.”

The April, 2018 visit to the Millerbernd facility will enable these INDOT employees to determine whether the company is able to design and build steel traffic sign structures in accordance with INDOT’s standard specifications. The visit will also assist in INDOT’s determination of whether these specifications should be broadened to allow alternative fabrications that will give more options for INDOT projects without compromising the quality of such installations.

Therefore, it is my opinion that it is consistent with the public interest for these INDOT employees to visit potential fabricator Millerbernd Manufacturing Company (“Millerbernd”) at the company’s home facility from April 17-19, 2018, and to receive the items of value specified above, even though payment for these items is being made by an entity that may be seeking to influence an action by one or more of these INDOT personnel in his official capacity. 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.

Sincerely,



Mark J. Tidd
Prequalification Director and Ethics Officer

cc: Jennifer Cooper, Indiana State Ethics Commission Director
Alison J. Grand, Deputy Commissioner and Chief Legal Officer, INDOT