



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue
Room N730
Indianapolis, Indiana 46204

PHONE: (317) 232-5411
EMAIL: mtidd1@indot.in.gov

Eric Holcomb, Governor
Joe McGuinness, Commissioner

INDIANA
STATE ETHICS COMMISSION

JAN 24 2018

FILED

January 24, 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 That Will Be Received by INDOT Employees Attending the ICI Prequalification Kickoff to be Held on January 26, 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 the INDOT employees on the list that is attached to this letter and marked as Exhibit A so that they may attend the Indiana Constructors, Inc. ("ICI") event entitled "Taking Your DBE to the Next Level" on January 26, 2017.

The ICI event entitled "Taking Your DBE to the Next Level" will be held at the Indianapolis Marriott North Hotel, 3645 River Crossing Parkway, Indianapolis, Indiana 46240. The item of value that will be received by INDOT employees attending the ICI event entitled "Taking Your DBE to the Next Level" is food.

The \$25 cost for each INDOT employee in Exhibit A at the luncheon for this event will be paid for by ICI, which will use registration fees and other revenue obtained from its member companies as the source of payment. The value of the luncheon was listed in an email dated January 16, 2018 from Andria Hine of the ICI to me. Some ICI 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 should not accept any other item of value from ICI 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. The safest course of action is for INDOT personnel to assume that anyone in the private sector attending the ICI event entitled "Taking Your DBE to the Next Level" might have a business relationship with INDOT.

Mr. James Clevenger
January 24, 2018
Page Two

Some INDOT personnel are expected to participate in a presentation, and others will attend because this event is the beginning of an initiative to get more companies eligible to become prequalified by INDOT and the DBE private sector attendees at the event may have specialized questions or concerns that the other INDOT attendees will be able to address. 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.”

Therefore, it is my opinion that it is consistent with the public interest for these INDOT personnel to attend the ICI event entitled “Taking Your DBE to the Next Level” on January 26, 2018, and to receive the item 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.

Sincerely,



Mark J. Tidd
Prequalification Director and Ethics Officer

cc: Alison Grand, INDOT Chief Counsel
Jennifer Cooper, Indiana State Ethics Commission Director

Attachment – Exhibit A (List of INDOT Attendees)

EXHIBIT A TO JANUARY 24, 2018 ETHICS WAIVER

List of INDOT personnel attending this ICI event entitled "Taking Your DBE to the Next Level," receiving lunch from ICI, and covered by this ethics waiver:

1. Alison Grand
2. Elizabeth Kiefner
3. David Alyea
4. Mary Konig
5. Derrick Casson
6. Taryn Guynn
7. Sean Howard

In addition to these seven (7) persons, the following INDOT personnel are also attending this event and expect to participate in the presentation at the event, which would qualify them for the exception to the Gift Rule in 42 IAC 1-5-1(b)(2)(B):

8. Mark Tidd
9. Jose Murillo
10. Greg Christoff
11. Agatha Wagoner

To the extent that one or more of these latter four (4) employees do not participate in the presentation enough to qualify for the above exception, it is the intent of this letter that each such INDOT employee is covered by this ethics waiver to the same extent as the seven INDOT employees first listed in this Exhibit A.