



# INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue  
Room N730  
Indianapolis, Indiana 46204

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

**Eric Holcomb, Governor**  
**Joe McGuinness, Commissioner**

INDIANA  
STATE ETHICS COMMISSION

FEB 13 2018

FILED

February 13, 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 and Special Appointee Attending the ATSSA Convention and Traffic Expo from January 26-30, 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 Stephen Harmon (Statewide Safety Technical Specialist), Mischa Kachler (Work Zone Safety Section Supervisor), Colin O'Keefe (Work Zone Safety Engineer), and Peter Carleton (Highway operations Roadway Support Engineer) so that they may attend the American Traffic Safety Services Association ("ATSSA") Convention and Traffic Expo on January 26-30, 2018. I gave my oral approval of this waiver to these employees before they attended this event.

The ATSSA Convention and Traffic Expo was held at the Henry B. Gonzalez Convention Center, 900 East Market Street, San Antonio, Texas 78205. Each state's transportation agency is eligible for one or more ATSSA scholarships to attend the Convention. INDOT received four (4) ATSSA scholarships – for Mr. Harmon, Mr. Kachler, Mr. Carleton, and Angela Smith (Statewide Safety Director). Ms. Smith, with the approval of ATSSA, has assigned her rights to the ATSSA scholarship to Mr. O'Keefe.

The items of value received by these INDOT employees attending the ATSSA Convention and Traffic Expo include (1) registration fees (valued at up to \$375), (2) drink (refreshments), (3) travel expenses (airfare, hotel, and food up to a total of \$1,500), and (4) services (general sessions and breakout sessions, some of which may result in continuing education credits).

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These items of value for INDOT personnel attending the ATSSA Convention and Traffic Expo will be paid for by ATSSA, which will use registration fees of its member companies as the source of payment. Some ATSSA 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 did not attend the January 26 Golf Classic Tournament at the Palmer Course at La Cantera, the January 26 Sporting Clays Event at the National Shooting Complex, the January 27 Chairman's Reception at the Marriott Rivercenter Hotel, or the January 28 PAC Reception at such hotel, unless they attended such events or activities on their own time and at their own expense.

INDOT personnel covered by this waiver were instructed to not accept any other item with greater than nominal value from ATSSA (other than printed informational material that is distributed at the Convention and Traffic Expo) or from 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 were informed that the safest course of action is to assume that anyone in the private sector attending the ATSSA Convention and Traffic Expo might have a business relationship with INDOT.

INDOT personnel attended one or more educational sessions, including workshops, "power talks," and committee meetings, and will also visit the exhibit hall. 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."

According to the ATSSA Convention and Traffic Expo website, it is intended to bring together business leaders, government officials, manufacturers, corporate roadway department personnel and all manner of people involved in nearly every aspect of roadway safety. Representatives from all 50 state DOTs will be in attendance, sharing a wide variety of cutting edge traffic safety solutions. A high-quality line-up of education and information sessions are available to assist INDOT in operating safely and efficiently, as well as introducing the agency to new safety innovations.

Therefore, it is my opinion that it is consistent with the public interest for these INDOT personnel to attend the ATSSA Convention and Traffic Expo from January 26-30, 2016 to February 2, 2016, 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.

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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 that reads "Mark J. Tidd". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

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