



INDIANA DEPARTMENT OF TRANSPORTATION

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Eric Holcomb, Governor
Joe McGuinness, Commissioner

INDIANA
STATE ETHICS COMMISSION

FEB 05 2018

FILED

February 5, 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 Were Received by INDOT Employees Attending the ICI Southern Winter Conference Held on January 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 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 "Southern Winter Conference" in Warsaw, IN on January 25, 2018.

The ICI event entitled "Southern Winter Conference" was held at the Bill's on the Hill restaurant, 1605 Highway 62 NE, Corydon, IN 47112. The item of value that will be received by INDOT employees attending the ICI event entitled "Southern Winter Conference" is food.

The \$5 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 given to me by Bart Mueller of INDOT. 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 "Southern Winter Conference" might have a business relationship with INDOT.

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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 “Southern Winter Conference” on January 30, 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 FEBRUARY 5, 2018 ETHICS WAIVER

List of INDOT personnel attending this ICI event entitled “Southern Winter Conference,” receiving lunch from ICI, and covered by this ethics waiver:

1. Bart Mueller
2. Mark Fligor
3. Tim Buckner
4. Andy Pinkstaff
5. Curt Schum
6. Clint Scherzer