



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue
Room N758
Indianapolis, Indiana 46204

PHONE: (855) 463-6848

Eric Holcomb, Governor
Michael Smith, Commissioner

March 22, 2023

FILED

Katherine Noel, Chair
Indiana State Ethics Commission
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202

MAR 22 2023

INDIANA STATE
ETHICS COMMISSION

RE: Waiver of Application of 42 IAC 1-5-1 (the "Gift Rule") for Certain Items of Value Received by INDOT Employees in Relation to the American Counsel of Engineering Companies- Indiana Engineering Excellence Awards Ceremony Luncheon 2023 on April 27, 2023.

Chairwoman Noel:

Commissioner Michael J. Smith, 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 items of value received by the INDOT employees identified in the attached Exhibit A in relation to their attendance at the American Counsel of Engineering Companies- Indiana ("ACEC")¹ Engineering Excellence Awards Ceremony Luncheon 2023 ("ACEC Awards") on April 27, 2023. Each attendee benefited from attendance for the reasons provided below.

The ACEC Engineering Excellence Awards Ceremony Luncheon 2023 will be held at the Marriot North Hotel, 3645 River Crossing Parkway, Indianapolis, Indiana 46240 on April 27, 2023. A lunch meal with a total value of Twenty-Five Dollars (\$25.00) per person is the sole item of value that will be received by INDOT employees in relation to the ACEC Awards. As outlined on the attached Exhibit A, four (4) INDOT employees will be attending the ACEC Awards, meaning the total value of food and beverage received by INDOT personnel will be One Hundred Dollars (\$100).

The meal provided to the attending INDOT employees will be paid for by ACEC, the Department's largest engineering trade association partner. Most of ACEC's dues paying members have a business relationship with INDOT. ACEC's mission is "to be the collective voice of the Indiana consulting engineering community." In this role, ACEC works closely with INDOT to bring critical industry perspective to Department policy making, business practices, and project development and implementation. In this way, ACEC is an important partner for INDOT. This partnership brings extensive value to Department operations, as the agency depends on consulting partners to scope, design, and maintain roadway, bridge, and drainage assets. Furthermore, as a public agency operating in the transportation infrastructure industry, INDOT must organize its operations around the realities of designing and building roads in the State of Indiana. Without ACEC's voice in internal and public conversations concerning policy and capital program adoption, the Department would miss out on important insight crucial to the successful execution of the Department's statutory mission to provide the Hoosier taxpayer, and the motoring public at large, with safe, reliable, and high-quality transportation infrastructure.

INDOT personnel covered by this waiver were instructed not to accept any other item of value from any other person or entity if that person or entity may have a business relationship with INDOT or may seek to influence an action by

¹American Counsel of Engineering Companies is a nationwide organization with numerous independent regional branches; for the purposes of this waiver, "ACEC" will refer exclusively to ACEC- Indiana.

one or more INDOT personnel in his or her official capacity. INDOT personnel are regularly informed that the safest course of action at any industry event is to assume that anyone in attendance from the private sector has a business relationship with INDOT.

ACEC Awards is a celebration of Indiana's most successful private and public transportation infrastructure projects. The event brings together clients and designers, along with other industry stakeholders, to recognize and celebrate the outstanding work delivered during the prior year. The ACEC Awards is an opportunity for INDOT employees to network and socialize with consultant partners while having their excellence recognized in a public forum. The event offers positive reinforcement for the hard work of honored attendees while also serving their professional development through networking and education.

The individuals who will attend the ACEC Awards are all employed in INDOT positions with direct contact with project delivery, design, and/or other consulting services. Therefore, the listed attendees have roles in which they work regularly with engineers and consultants in attendance at the ACEC Awards, and experience with the projects honored at the event. The professional services provided by these individuals for INDOT will be enhanced by learning about evolving best practices and technological developments reflected in the design, engineering, and construction underlying the honored projects, and from exchanging ideas with industry stakeholders in attendance. Accordingly, every INDOT employee who will participate in the ACEC Awards holds a position with duties that will directly benefit from their individual attendance at the event, both through the educational and networking components of the luncheon.

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." By attending the ACEC- Indiana Engineering Excellence Awards Ceremony Luncheon 2023, INDOT employees will be educated concerning developments in the transportation design and engineering industry, including changing design best practices, technological advancements, and new product development embodied in the highlighted projects. Furthermore, INDOT employees will have the opportunity to build better partnerships with attendee firms and trade associations that do business with the Department and educate said industry members regarding INDOT operations. Attendees will likewise be able to connect with potential new designers and consultants, who could offer improvements to INDOT's critical design, engineering, and asset management programming.

Therefore, it is my opinion that it is consistent with the public interest for the INDOT personnel listed in the attached Exhibit A to attend the American Counsel of Engineering Companies- Indiana Engineering Excellence Awards Ceremony Luncheon 2023 on April 27, 2023, and to receive lunch, even though the food and beverage will be paid for by ACEC through membership dues and event sponsorships funded in part by INDOT vendors. Based on this finding, I am hereby waiving application of 42 IAC 1-5-1 (a) to allow the attached identified INDOT employees to accept food and beverages with a total value of One Hundred Dollars (\$100) provided by ACEC in relation to the employees' attendance at the American Counsel of Engineering Companies- Indiana Engineering Excellence Awards Ceremony Luncheon 2023 on April 27, 2023.

If you need additional information or have any questions about this letter, please feel free to contact me at (317) 234-2115 or chserak@indot.in.gov.

Very Respectfully Submitted,

/s/ Christopher Bradley Serak

Christopher B. Serak,
Director of Prequalification &
Construction Compliance
Ethics Officer
Indiana Department of Transportation

INDOT EMPLOYEE NAME	Title	District
Greg Prince	Project Manager- Consultant Services	Seymour
Kyanna Wheeler	Project Manager- Consultant Services	Central Office
Pete White	Design Manager- Bridge Design	Central Office
Scott Chandler	Capital Program Mgmt Director	Crawfordsville

Exhibit A- INDOT Attendees