



INDIANA DEPARTMENT OF TRANSPORTATION

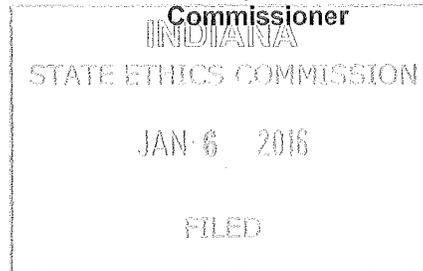
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Michael R. Pence, Governor
Brandye L. Hendrickson,
Commissioner

January 4, 2016

Mr. James Clevenger, Chair
Indiana State Ethics Commission
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202



RE: Waiver of Application of 42 1-5-1 (the "Gift Rule") for Certain Items of Value That Will Be Received by INDOT Employees Attending the ATSSA Convention from January 29, 2016 to February 2, 2016

Dear Mr. Clevenger:

Brandye L. Hendrickson, 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 INDOT employees Lalit Garg (Highway Engineer 2 in the Traffic Administration Office), Michael Bowman (Traffic Support Manager), and Stephen Harmon (Statewide Safety Technical Specialist Director) so that they may attend the American Traffic Safety Services Association ("ATSSA") Convention and Traffic Expo (the "Convention") from January 29, 2016 to February 2, 2016.

The ATSSA Convention will be held at the Ernest N. Morial Convention Center in New Orleans, Louisiana. Each state's transportation agency is eligible for one or more ATSSA scholarships to attend the Convention. See <http://expo.atssa.com/register.html>. INDOT received three (3) ATSSA scholarships – for Mr. Bowman, Mr. Harmon, and David Boruff, INDOT's Manager of the Office of Traffic Administration. Mr. Boruff, with the approval of ATSSA, has assigned his rights to the ATSSA scholarship to Mr. Garg.

The items of value that will be received by these INDOT employees attending the ATSSA Convention include (1) registration fees (valued at up to \$375), (2) food (breakfast and lunch at the Convention Center), (3) drink (refreshments), (4) travel expenses (airfare and hotel, up to a total of \$1,500), and (5) services (general sessions and breakout sessions, some of which may result in continuing education credits).

These items of value for INDOT personnel attending the ATSSA Convention 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.

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INDOT personnel covered by this waiver will not attend the January 29 Golf Classic Tournament at the English Turn Golf & Country Club, the January 29 Sporting Clays Event at the High Point Shooting Grounds, the January 30 Chairman's Reception at the Hilton New Orleans Riverside Hotel, or the January 31 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 will be 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) 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 will be informed that the safest course of action is to assume that anyone in the private sector attending the ATSSA Convention might have a business relationship with INDOT.

INDOT personnel will attend 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 Convention 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 from January 29, 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.

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, Attorney, and Ethics Officer

cc: Jennifer Cooper, Indiana State Ethics Commission Director
Lori A. Torres, Deputy Commissioner and Chief Legal Officer, INDOT