



INDIANA DEPARTMENT OF TRANSPORTATION

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Eric Holcomb, Governor
Joe McGuinness, Commissioner

INDIANA
STATE ETHICS COMMISSION

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February 16, 2018

FILED

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 Employee Scott Manning 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 employee Scott Manning (Strategic Communications Director) so that he 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 this employee before he 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. INDOT nominated Kara Kenney of Indianapolis television station WRTV-TV for the 2017 ATSSA National Media Award. ATSSA decided to make this award to Ms. Kenney, and ATSSA requested that INDOT send a representative to participate in the presentation of this award at the Convention and Traffic Expo on January 26-30, 2018. ATSSA offered to pay for the INDOT employee's round-trip airfare, hotel for two nights, admission to the Convention and Traffic Expo, and meal reimbursement (which was accepted only at the State of Indiana out-of-state daily per diem rate).

The items of value received by this INDOT employee attending the ATSSA Convention and Traffic Expo include (1) registration fees (valued at up to \$375), (2) drink (refreshments), and (3) travel expenses (airfare, hotel, and food up to a total of \$870).

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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 he attended such events or activities on his own time and at his own expense.

INDOT personnel covered by this waiver was 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 was 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.

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 this INDOT employee to attend the ATSSA Convention and Traffic Expo from January 26-30, 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.

Sincerely,

A handwritten signature in black ink that reads "Mark J. Tidd". The signature is written in a cursive style with a large, looped "M" and "T".

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