



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue
Room N730
Indianapolis, Indiana 46204

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

Eric Holcomb, Governor
Joe McGuinness, Commissioner

INDIANA
STATE ETHICS COMMISSION

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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 Employee D. Todd Shields Attending the CRAFCO National Distributor Meeting from January 29-31, 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 D. Todd Shields (Maintenance Field Support Manager so that he may attend the CRAFCO National Distributor Meeting on January 29-31, 2018. I gave my oral approval of this waiver to this employee before he attended this event.

The CRAFCO National Distributor Meeting was held at the Tempe Mission Palms Hotel and Convention Center, 60 East 5th Street, Tempe, Arizona. The items of value received by this INDOT employee attending the CRAFCO National Distributor Meeting include travel expenses (airfare, hotel, and food up to a total of \$1,400). There is a reasonable position that Mr. Shields' speech or presentation at this event at which at least twenty-five (25) persons were invited qualifies for the exception to the Gift Rule in 42 IAC 1-5-1(b)(2)(B). However, this exception is limited to "food or drink," so it would not cover the balance of his travel expenses and this ethics waiver is still necessary.

The above travel expenses to the CRAFCO National Distributor Meeting were paid by the National Center for Pavement Preservation ("NCPP"), which is the manager of AASHTO's "Technical Program for Transportation System Preservation." NCPP's mission is to support and promote pavement and bridge preservation throughout the United States of America. NCPP has provided past speakers to INDOT for Road School and the agency's Maintenance Conference.

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The INDOT personnel covered by this waiver was instructed to not accept any other item with greater than nominal value from the private company CRAFCO (other than printed informational material that is distributed at the CRAFCO National Distributor Meeting) 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 CRAFCO National Distributor Meeting might have a business relationship with INDOT.

INDOT personnel attended one or more educational sessions, including workshops, plant tours, equipment demonstrations, and committee meetings. 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."

CRAFCO is a national supplier of crack seal materials and equipment. INDOT's current QPA for crack sealant is with CRAFCO. INDOT will benefit from gaining new knowledge and practices involving crack sealant and treatments, and also had the opportunity to share the agency's experiences with other experts in this field.

Therefore, it is my opinion that it is consistent with the public interest for this INDOT employee to attend the CRAFCO National Distributor Meeting from January 29-31, 2018, 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 and Ethics Officer

cc: Jennifer Cooper, Indiana State Ethics Commission Director
Alison J. Grand, Deputy Commissioner and Chief Legal Officer, INDOT