



# INDIANA DEPARTMENT OF TRANSPORTATION

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**Eric Holcomb, Governor**  
**Joe McGuinness, Commissioner**

July 24, 2017

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

RE: Post-Employment Waiver for INDOT Employee Shawn Williams

Dear Mr. Clevenger:

As the Commissioner of INDOT, I have approved and executed a waiver of the one-year "cooling-off" period for INDOT employee Shawn Williams. Unfortunately, I must attend the Team Indiana kick-off meeting with representatives of large construction contractors and professional service consultants on the same date and at the same time as the August 10, 2017 meeting at 10:00 a.m. of the State Ethics Commission, so I will be unable to attend this meeting of the Commission. Chris Kiefer, INDOT's Chief of Staff, will be at the same Team Indiana event that requires my attendance, and cannot attend the State Ethics Commission meeting.

I have discussed my reasons for granting this waiver with Alison Maloof, INDOT's Chief Legal Counsel. Ms. Maloof will be able to attend the Commission's August 10 meeting, present the waiver to the Commission, and answer all questions of the Commission members concerning the form and substance of the waiver for Mr. Williams.

Thank you for allowing Alison Maloof to serve as my representative at the Commission's August 10, 2017 meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe McGuinness".

Joseph McGuinness  
Commissioner

cc: Alison J. Maloof, Chief Legal Counsel, INDOT

## IC 4-2-6-11

### Post-employment waiver

As the Appointing Authority of the Indiana Department of Transportation, I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Shawn Williams in his/her post-employment with E&B Paving, Inc.

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of *(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):*

IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.

IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.

IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.

IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

The following information is supported by the employee's personnel file, and based upon information the employee's supervisor, Brad Taylor (an Area Engineer for INDOT's Fort Wayne District), has provided to INDOT's Ethics Officer in connection with the process of considering this waiver.

As a Project Supervisor in the Construction Department of INDOT's Fort Wayne District since 2001, Shawn administers various construction contracts assigned to him by his Area Engineer. These assignments are made prior to contract letting and award of the contract to the lowest bidder. Shawn's role as Project Supervisor is to ensure contracts are constructed to the plans and specifications as required by the contract and ensure all materials meet current INDOT standards. Other duties required in this position include monitoring budget, time, and execution in accordance with the contract documents. Shawn is also required to participate in snow and ice removal operations in the winter as needed.

Shawn has not had substantial decision-making authority over policies or rules at INDOT. Shawn has some decision-making authority over the INDOT construction contracts he is administering, but any decision that involves more than \$50,000 additional public monies (to be paid via INDOT's approval of a change order) requires the concurrence of Shawn's supervisor, the Area Engineer. Shawn regularly sought his Area Engineer's concurrence even for changes that did not meet the \$50,000 threshold. INDOT's current practice is that any change order initiated by Shawn or any other Project Supervisor should have the concurrence of his or her supervisor and of the Project Manager.

INDOT's Ethics Officer made the determination that Shawn would be subject to a 365-day "cooling-off" period between the date he left state employment and the date that he could start working for E&B Paving, Inc. because (A) Shawn was engaged in the administration of one or more contracts with E&B Paving, Inc. on behalf of INDOT as a front-line Project Supervisor, and (B) Shawn was in a position to make certain discretionary decisions affecting the administration of those contracts.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Based solely on the information provided to me by Shawn, and contingent on the approval of this waiver by the State Ethics Commission, Shawn intends to accept the position of Sales/Project Manager at E&B Paving, Inc. Shawn apparently will be responsible for monitoring and managing time and cost associated with various projects, as well as responsible for preparing bids to obtain work contracts for E&B Paving, Inc. from both public entities and private parties.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

E&B Paving usually has multiple contracts with INDOT statewide at any particular time. Shawn could be directly involved in future E&B Paving/INDOT contracts in his new role of Sales/Project Manager. However, Shawn has told INDOT's Ethics Officer that Shawn will scrupulously observe the "particular matters" post-employment restriction in the state ethics rules and will not have any involvement on behalf of E&B Paving, Inc. whatsoever in any contract or other matter where Shawn personally and substantially participated in the matter as an INDOT employee. It is Shawn's understanding that E&B Paving, Inc. understands and agrees to similarly help Shawn comply at all times with the "particular matters" restriction.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

It is in the public's interest and beneficial to the state, local governments, and other Indiana public entities to have Shawn's extensive experience available to provide guidance to E&B Paving, Inc. as it performs its contractual obligations for state and public works projects throughout the state. Shawn's position with his potential employer would apply and utilize his extensive INDOT experience to provide a better product to the state and these other public agencies. It is also in the public's best interest to continue to receive a return on the investment made in Shawn during his 16 years working at INDOT.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

As a member of the Project Supervision staff at INDOT, most relevant outside employment opportunities for Shawn would have to undergo ethics scrutiny and some would be prohibited. Failure to approve this opportunity would severely limit Shawn's opportunities outside INDOT.

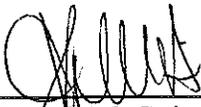
Further, Shawn is a single, full-time father looking to improve his financial situation so that he can better support himself and his family. Failure to approve this opportunity will materially and adversely impact Shawn's family and Shawn's plans for his family's future.

**(REST OF PAGE 3 LEFT INTENTIONALLY BLANK)**

C. Signatures

1. Appointing authority/state officer of agency

By signing below I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee who obtains the waiver before engaging in the conduct that would give rise to a violation.

  
\_\_\_\_\_  
Joseph McGuinness, Commissioner  
INDIANA DEPARTMENT OF TRANSPORTATION

7/21/2017  
DATE

2. Ethics Officer of agency

By signing below I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).

  
\_\_\_\_\_  
Mark Tidd, Ethics Officer  
INDIANA DEPARTMENT OF TRANSPORTATION

7/28/17  
DATE

D. Approval by State Ethics Commission

**FOR OFFICE USE ONLY**

Approved by State Ethics Commission

Mail to:

Office of Inspector General  
315 West Ohio Street, Room 104  
Indianapolis, IN 46202

OR

Email scanned copy to: [info@ig.in.gov](mailto:info@ig.in.gov)

*Upon receipt you will be contacted with  
details regarding the presentation of this  
waiver to the State Ethics Commission.*