



INDIANA DEPARTMENT OF TRANSPORTATION

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Eric Holcomb, Governor
Joe McGuinness, Commissioner

January 31, 2022

INDIANA
STATE ETHICS COMMISSION

JAN 31 2022

FILED

Katherine Noel, 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 Received by INDOT Employees in Relation to the Asphalt Paving Association of Indiana (APAI) Winter Conference and Expo on December 15-17, 2021.

Chairperson Noel:

Commissioner 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. I am hereby waiving application of 42 IAC 1-5-1 (a) for the INDOT employees identified on the attached Exhibit A in relation to their attendance at the 2021 Asphalt Paving Association of Indiana (APAI) Winter Conference and Expo ("APAI Conference") on December 15-17, 2021. Each attendee benefited from attendance for the reasons provided below.

The APAI Conference was held at the Indianapolis Marriott East, 7202 E 21st Street, Indianapolis, Indiana 46219 on December 15-27, 2021. The item(s) of value received by INDOT employees in relation to the APAI Conference include registration fees and three (3) lunch meals. The registration fees were Three Hundred Dollars (\$300.00) per person. Each lunch had an approximate value of Forty Dollars (\$40.00), for a total gift value of Four Hundred Twenty Dollars (\$420.00) per person.

The costs of the registration fees and lunch were covered by the Asphalt Paving Association of Indiana (APAI). Several of the member-companies that sponsor the APAI Conference, and pay dues from which INDOT's expenses were covered, have a business relationship with INDOT, or may otherwise have a business interest in seeking to influence an action by one or more INDOT attendees in his or her official capacity.

INDOT personnel covered by this waiver were instructed not to accept any other item of value 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 are also regularly informed that the safest course of action at any industry event is to assume that anyone in attendance from the private sector might have a business relationship with INDOT.

The APAI Conference is primarily educational in nature, with some networking opportunities as well. The listed INDOT employees attended all educational sessions, as well as participating in networking opportunities. Several employees gave presentations during the educational components of the conference and made themselves available to answer attendee's questions about doing business with INDOT and INDOT operations.

The individuals who attended the event, as identified in Exhibit A, are in construction department or similar positions within central office or the INDOT districts, all of which have contact with asphalt contractors, or otherwise assist in the delivery of construction projects involving such contractors or other stakeholders in attendance at the event. The professional services provided by these individuals for INDOT were enhanced by learning about evolving means and methods in the asphalt paving industry, and from exchanging ideas with industry stakeholders in attendance. Even those individuals not specializing in asphalt related work within the Department benefit from such opportunities, as project delivery requires a holistic understanding of construction requirements. Accordingly, every attendee listed in Exhibit A is in a position with the Department to benefit from attendance, both through the educational and networking components of the event.

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 APAI Conference, INDOT employees were educated concerning developments in the asphalt and pavement industry, including construction means and methods. INDOT employees further had the opportunity to build better partnerships with attendee firms that do business with the Department and educate industry members regarding INDOT operations.

Therefore, it is my opinion that it is consistent with the public interest for these INDOT personnel to have attended the APAI Conference on December 15-17, 2021, and to receive the items of value specified above, even though payment for these items was made from dues paid 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 allow INDOT to accept registration fees and lunch meals for the APAI Conference, with a total value of Four Hundred Twenty Dollars (\$420.00) per person.

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,
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Exhibit A

