



INDIANA DEPARTMENT OF TRANSPORTATION

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

INDIANA
STATE ETHICS COMMISSION

MAR 28 2016

FILED

March 23, 2016

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

RE: Waiver of Application of 42 I-5-1 (the "Gift Rule") for Certain Items of Value That Will Be Received by INDOT Employees and Special Appointee Attending the ACPA Excellence in Concrete Pavement Awards Luncheon to Be Held on March 23, 2016

Dear Mr. Clevenger:

Brandye 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 Patrick Craig and Chuck McCandless so that they may attend the ACPA Excellence in Concrete Pavement Awards Luncheon to be held on March 3, 2016.

The ACPA Excellence in Concrete Pavement Awards Luncheon will be held at the Indianapolis Marriott North Hotel, 3645 River Crossing Parkway, Indianapolis, IN 46240. The items of value that will be received by the INDOT employees attending the ACPA Excellence in Concrete Pavement Awards Luncheon include food and drink.

The \$42.95 cost for each INDOT employee to attend the ACPA Excellence in Concrete Pavement Awards Luncheon will be paid for by the American Concrete Pavement Association, Indiana Chapter ("ACPA"), which will use registration fees of its member companies as the source of payment. The value of the luncheon was communicated to me by Patrick Long, Director of Marketing & Government Affairs for ACPA. Some ACPA 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 will be instructed to not accept any other item of value from ACPA or 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 ACPA Excellence in Concrete Pavement Awards Luncheon might have a business relationship with INDOT.

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These two INDOT personnel may participate in a presentation relating to INDOT's receipt of a 2016 Excellence in Concrete Pavement Award in the Divided Highways (Rural) category, which will be announced and awarded at this 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."

Therefore, it is my opinion that it is consistent with the public interest for these two INDOT personnel to attend ACPA Excellence in Concrete Pavement Awards Luncheon to be held on March 23, 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