



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue
Room N758
Indianapolis, Indiana 46204

PHONE: (855) 463-6848

Eric Holcomb, Governor
Michael Smith, Commissioner

July 8, 2024

FILED

JUL 8 2024

INDIANA STATE
ETHICS COMMISSION

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 American Concrete Pipe Association 2023 Pipe School on June 27, 2024.

Chairwoman Noel:

Commissioner Michael J. Smith, 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 items of value received by INDOT employees William Schmidt, James Emerick, Anthony Cox, James Boehm, Alex Schwinghamer, Mark Bailey, Crystal Weaver, Nicole Reed, Eric Moster, Meagan Froman, David Meyer, and Matt Bunton in relation to their participation in the American Concrete Pipe Association 2023 Pipe School ("Pipe School") held on June 27, 2024. Each employee benefited professionally from attendance for the reasons provided below.

The Pipe School was held at the Rinker Materials, at 6662 W. 350 North Greenfield, IN 46140, on June 27, 2024. INDOT employees received a tour of the Rinker's Greenfield pipe plant, lunch, and to view presentations regarding the strength of the pipe, valued at approximately seventy-five dollars (\$75.00) per person, comprising lunch. The combined value of the items received by INDOT employees is therefore approximately Nine Hundred Dollars (\$900.00).

The lunch was provided by the American Concrete Pipe Association ("ACPA"), an association of companies operating in the concrete pipe and drainage infrastructure industry. ACPA members include INDOT vendors and suppliers with ongoing business relationships with the Department. The ACPA is itself an industry partner of the Department with an interest in the business and operational decision-making of the agency. Corporate trinkets potentially made available to attending INDOT employees may have been offered by existing Department vendors or companies with an interest in future agency contracting opportunities. While such souvenirs are not subject to the prohibition on accepting gifts under 42 IAC 1-5-1, receipt is being disclosed in the interest of complete transparency.

INDOT personnel covered by this waiver were instructed not to accept any other item of value from any other person or entity if that person or entity 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 regularly informed that the safest course of action at any industry event is to assume that anyone in attendance might

have a business relationship with or operational interest in the Indiana Department of Transportation.

The ACPA Pipe School is primarily educational in nature, and the above listed INDOT employees attended the educational tour, as well as participating in production seminars. Employees took advantage of the unique opportunity to engage diverse industry stakeholders and experts on topics of particular interest to their duties at the Department.


The individuals who attended the event are all employed in the INDOT Hydraulics Division, and therefore administer INDOT's adherence to industry best practices in the field of drainage engineering, as well scoping and designing drainage facilities and layout on Department projects and in Department right of way. Hydraulics Division employees work closely with drainage industry stakeholders, such as the ACPA, which is the preeminent socio-educational platform for advancing the concrete pipe and drainage infrastructure industry. The professional services provided by these INDOT employees on behalf of the State of Indiana are greatly enhanced through learning about evolving best practices and technological developments in hydraulic design, engineering, and maintenance, and from exchanging ideas with commercial stakeholders at events such as plant tours and product presentations, which promises to "advance the industry by teaching classes on production and quality, while engaging with industry stakeholders to ensure that they are provided with information vital to their decision making process." Accordingly, every INDOT employee who participated in the 2024 ACPA Plant Tour holds a position with duties that directly benefited from their individual attendance at the event, both through the educational and networking components.

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 2024 ACPA Plant Tour, INDOT employees were educated concerning various install practice and different class of strength of pipe. INDOT uses products from both Rinker Materials, nearby for concrete applications.

Therefore, it is my opinion that it is consistent with the public interest for the below listed INDOT personnel to have attended the American Concrete Pipe Association 2024 Plant Tour on June 27, 2024, and to receive the items of value specified above, even though payment for these items was made by the American Concrete Pipe Association, an industry association with an interest in INDOT business, comprised of member companies including current Department vendors and firms with a potential interest in establishing a business relationship with the agency. Based on this finding, I am hereby waiving application of 42 IAC 1-5-1 (a) to allow INDOT employees, William Schmidt, James Emerick, Anthony Cox, James Boehm, Alex Schwinghamer, Mark Bailey, Crystal Weaver, Nicole Reed, Eric Moster, Meagan Froman, David Meyer, and Matt Bunton to accept lunch from the American Concrete Pipe Association to attend the 2024 ACPA Plant Tour, which lunch for all twelve employees have a total combined value of approximately Nine Hundred Dollars (\$900.00).

If you need additional information or have any questions about this letter, please feel free to contact me at (317) 719-6624 or msteele@indot.in.gov.

Very Respectfully Submitted,



Michele D. Steele,
Director of Prequalification &
Compliance Ethics Officer
Indiana Department of Transportation