

**MINUTES OF THE KANKAKEE RIVER BASIN AND YELLOW RIVER BASIN
DEVELOPMENT COMMISSION
HELD THURSDAY, JULY 18, 2019
9:30 AM CDT
KANKAKEE FISH AND WILDLIFE AREA
4320 WEST TOTO ROAD
NORTH JUDSON, IN 46366**

Executive Director Scott Pelath called the meeting to order at 9:40 a.m.

Mr. Pelath called the roll.

Members present

Rob Churchill	Bill Crase	John Coulter, Sr.
Craig Cultice	Bill Emerson	John McNamara
Ryan Mueller	Mike Novotney	James Walstra

Guests Present

Julie Morris	Siavash Beik	Gus Ellicott	Tate Butler
Peg Kohring	Al Cameron, Jr.	Al Cameron, III	Grant Poole
Kevin Chesak	Rick Chesak	Karen Horn	Steve Bohan
George Bowman	Mark Kingma	Kim Peterson	State Rep. Pat Boy
Jeff Manes	John Gelow	Frank Newton	Tom Larson
Chris Knochel	Tony Hendricks	Christine Keil	Mike Delp
Vince Urbano	Bob Barr	Dan Gumz	

Staff Present

Scott Pelath

Mr. Pelath determined that a quorum was present to conduct business.

The members of the new Commission introduced themselves to the public.

Introduction of Guests

Mr. Pelath introduced State Rep. Pat Boy and members of the Technical Advisory Committee. He then invited other guests to introduce themselves.

Election of Officers

Mr. Pelath opened the nominations for Commission Chair.

Bill Crase nominated John McNamara of St. Joseph County for the position of Chair. John Coulter, Sr., seconded the nomination.

Mr. Coulter moved that the nominations be closed, and Mr. Pelath heard a second.

Mr. Walstra moved that Mr. McNamara be selected Chair by acclamation, and Mr. Pelath heard a second.

MOTION TO ELECT MR. MCNAMARA FOR THE POSITION OF CHAIR PREVAILED BY VOICE VOTE.

Mr. McNamara assumed the position of Chair.

The chair opened the nominations for the position of Vice-Chair.

Mr. Crase nominated Bill Emerson of Lake County for Vice-Chair, and the chair heard a second.

There were no other nominations.

MR. EMERSON WAS SELECTED FOR THE POSITION OF VICE-CHAIR BY VOICE VOTE.

The chair opened the nominations for the position of Secretary.

Mr. Emerson nominated Mike Novotney of Porter County for the position of Secretary, and the chair heard a second.

There were no other nominations.

MR. NOVOTNEY WAS SELECTED FOR THE POSITION OF SECRETARY BY VOICE VOTE.

The chair opened the nominations for the position of Treasurer.

Mr. Emerson nominated Mr. Crase of Starke County for the position of Treasurer, with Mr. Coulter seconding the nomination.

There were no other nominations.

MR. CRASE WAS SELECTED FOR THE POSITION OF TREASURER BY UNANIMOUS VOICE VOTE.

Adoption of Bylaws

Mr. Pelath presented the draft bylaws, which were distributed to members prior to the meeting.

The chair recommended that the Chair of the Technical Advisory Committee initially be appointed by the Commission Chair, but that all subsequent selections be determined by the Committee itself.

Mr. Pelath suggested amending Article VII, Section 2 of the draft bylaws to read, “The first Chair of the Technical Advisory Committee shall be appointed by the Chair of the Commission. The Committee may select other officers it deems necessary. Effective July 1, 2020, all officers shall be elected by the Committee.”

THE AMENDMENT WAS ADOPTED BY UNANIMOUS CONSENT.

Mr. Emerson moved to adopt the bylaws as amended [ATTACHMENT 1], and the chair heard a second.

MOTION PASSED BY VOICE VOTE.

Adoption of June 13 KRBC Meeting Minutes

Mr. Novotney moved the adoption of the minutes, with Mr. Crase seconding the motion.

MOTION PASSED BY VOICE VOTE.

Finance Report

Mr. Pelath gave a financial report. A written copy was contained within his Executive Director’s Report, which was distributed to members prior to the meeting [ATTACHMENT 2].

The chair asked for a motion to accept the financial report.

Mr. Pelath said that once spending decisions were made at today’s meeting, a revised budget would be submitted for adoption at the August meeting.

Mr. Emerson moved to accept the financial report, with Mr. Crase seconding the motion.

MOTION PASSED BY VOICE VOTE.

Executive Director’s Report

Mr. Pelath gave his Executive Director’s Report, which was distributed to members prior to the meeting [ATTACHMENT 2].

NEW BUSINESS

Assignment of Burke Recommendations to Technical Advisory Committee

Mr. Novotney urged that the Technical Advisory Committee review the Burke report and present some early recommendations to be considered at the August meeting.

Mr. Novotney moved that the Burke Report be submitted to the Technical Advisory Committee for review and identification of early action items to be considered at the August meeting. The chair heard a second.

MOTION PASSED BY VOICE VOTE.

Appointment of Technical Advisory Committee Chair

The chair appointed Tony Hendricks of LaPorte County as Chair of the Technical Advisory Committee.

Invitation to Kankakee and Iroquois Counties in Illinois to appoint non-voting members

Mr. Emerson moved that the Commission invite Kankakee and Iroquois Counties, Illinois, to appoint to non-voting members to the Commission. The chair heard a second.

MOTION PASSED BY VOICE VOTE.

Mission and Vision Statements

The Commission reviewed several draft mission and vision statements.

Mr. Emerson moved that the Commission adopt the following Mission and Vision Statement, with Mr. Crase seconding:

MISSION STATEMENT

The Kankakee River Basin and Yellow River Basin Development Commission advances Northwest Indiana's safety, economic prosperity, and quality of its natural resources.

VISION STATEMENT

The Kankakee River Basin and Yellow River Basin Development Commission is building a region where its residents, farms, and communities prosper in concert with one of the nation's most unique natural environments.

Mr. Coulter urged the inclusion of farming. Mr. Pelath noted the direct reference to farming in the Vision Statement.

MOTION PASSED BY VOICE VOTE.

Accounting proposal from NIRPC

Mr. Pelath presented NIRPC's 17-month accounting proposal, which was distributed to members prior to the meeting [ATTACHMENT 3]. Mr. Pelath said it was necessary to modernize and improve the accounting system to meet the Commission's new statutory charges. He also suggested that the Commission purchase and utilize a Quickbooks accounting system, which the Commission would own regardless of accounting provider.

The chair recommended that the Executive Director be empowered to negotiate an accounting contract with NIRPC through the end of 2020.

Rob Churchill noted that we would still retain the option to select a different accounting provider in the future.

Mr. Novotney noted that QuickBooks was a recognized and commercially acceptable system.

The chair stated that we owe an obligation of transparency to the public, and that a good accounting system is essential.

The chair moved that the Executive Director be allowed to negotiate with NIRPC to provide accounting services through 2020. The chair heard a second.

MOTION PREVAILED BY VOICE VOTE.

Proposal for website redesign

Mr. Pelath presented the proposal of the current website vendor, On-Site Computing, to redesign the existing KRBC website for the new Commission [ATTACHMENT 4].

Mr. Pelath suggested using the existing vendor, but to reduce the amount contained within On-Site's proposal. He requested an additional budget allocation of \$6500 for the website.

Craig Cultice said that in the future, drone footage available on the website would be of interest to the public.

Mr. Emerson expressed a wish to make video of meetings available on the website. Mr. Pelath said he had already discussed making audio records available.

Mr. Emerson moved that the Executive Director be allowed to negotiate the final amounts for On-Site Computing to revise and update the website. The chair heard a second.

MOTION PASSED BY VOICE VOTE.

Commission name and official logo

Mr. Pelath said we need a shorthand method of referring to the Commission. He suggested, “Basin Development Commission.”

Mr. Pelath also asked that rather than paying a designer, he simply be entrusted to create a logo himself.

The Commission deferred on the matter for further consideration.

Draft competitive bidding policy

Mr. Pelath drafted a competitive bidding policy that mirrors what is already contained in the Indiana Administrative Code [ATTACHMENT 5]. He suggested that it needed much further review, and asked that it be referred to the Technical Advisory Committee for consideration. He did not recommend it for adoption at this time.

The chair suggested that it also be reviewed by the Attorney General’s office.

Needs for retained legal counsel

Mr. Pelath noted that needs for professional legal counsel in contracting and other business decisions was likely. He reported that the Office of the Attorney General is willing to provide the Commission’s legal service for \$150 per hour after signing a Memorandum of Understanding.

Mr. Pelath asked to be empowered to negotiate a Memorandum of Understanding with the Attorney General’s office for review and signature by the Chair and Treasurer.

Mr. Coulter moved that the Executive Director negotiate an agreement with the Office of the Attorney General to provide legal services to the Commission. The chair heard a second.

MOTION PASSED BY VOICE VOTE.

Public information meetings

Mr. Pelath said he would take the initiative to schedule the meetings at regular intervals over time. The chair said he would make every effort to attend those meetings. Mr. Pelath said the members might find value in attending meetings in counties other than their own.

Verification of geographic areas subject to assessment beginning in 2021

The chair said the exactness of the basin’s boundaries has been on his mind.

Ryan Mueller reported that the Department of Natural Resources is already working to produce certified information. He said he would give a further report at the August meeting.

Appointment of other standing committees

Mr. Pelath asked that a personnel committee be appointed to ensure an orderly transition to his status as an employee of the Commission.

The chair appointed himself, Mr. Crase, and Mr. Novotney to the committee.

OTHER BUSINESS

Mr. Pelath raised the possibility of converting the Thayer Farm into an early storage project, and asked the Technical Advisory Committee to consider its feasibility.

Mr. Crase also asked that the Technical Advisory Committee review how we might receive mitigation credits for such a project.

PUBLIC COMMENT

Vince Urbano, the Jasper County Surveyor, urged the Commission to support federally funded bank reinforcements in Jasper County. Jasper County is in the process of receiving federal dollars to repair damage from the 2018 flood.

Tom Larson urged that NRCS be present at future meetings.

NEXT MEETING

The next meeting was scheduled for August 22, 2019, at 9:30 CST at a location to be determined in Porter County.

ADJOURNMENT

The meeting adjourned at 11:20 a.m. CST.

ATTACHMENT 1 – ADOPTED BYLAWS

KANKAKEE RIVER BASIN AND YELLOW RIVER BASIN DEVELOPMENT COMMISSION BYLAWS

PREAMBLE

Under IC 14-13-9, the Kankakee River Basin and Yellow River Basin Development Commission is empowered to adopt rules for the transaction of business. The following bylaws are intended to reflect provisions of Indiana law governing the Commission and to provide further order in the execution of its statutory powers and duties.

I. MEMBERSHIP

Section 1. Appointments

The Commission is comprised of nine (9) members. The county executives in Jasper, Lake, LaPorte, Marshall, Newton, Porter, Starke, and St. Joseph Counties will each appoint one (1) member. The ninth member shall be the Director of the Indiana Department of Natural Resources or the Director's designee.

Section 2. Terms

The length of a member's term is four (4) years. However, initial appointments by the executives of LaPorte, Marshall, Porter, and Starke Counties shall be two (2) years in length, and four (4) years for each successive appointment. Lengths of terms notwithstanding, a member's period of service continues until a successor is appointed. Terms continue until a successor is appointed.

Section 3. Non-Voting Members

At the Commission's discretion, one (1) non-voting member appointed by the county executive in Iroquois County, Illinois and one (1) non-voting member appointed by the county executive Kankakee County, Illinois may be invited to serve on the commission as non-voting members. Non-voting members are ineligible to serve as officers of the Commission.

Section 4. Qualifications

All members must possess a background in construction, project management, flood control, drainage, or another similar professional background.

Section 5. Verification of Membership

An appointment of a member is verified when 1) denoted in writing on standard letterhead of the appointing authority, signed by an authorized representative of the appointing authority, and received and reviewed by the Commission or the Commission's authorized representative; 2) reflected in the minutes or official records of the appointing authority; or 3) recorded in the video or digital record of the appointing authority's proceedings.

Section 6. Vacancies

If a member vacates a position on the Commission, the member's appointing authority may appoint a new member to complete the vacating member's unexpired term.

Section 7. No Action by Appointing Authorities

If a county declines to make an appointment to the Commission by September 1, 2019, the Surveyor of that county will be accepted as a voting member of the Commission for a term consistent those described in Section 2.

Section 8. Reappointment

A member who is appointed to the commission is eligible for reappointment.

II. QUORUM

A quorum is constituted by the presence of five (5) voting members, and the affirmative votes of (5) members are required for any action taken by the Commission.

III. VOTING

Section 1. Any member appointed under Article I, Section 1 may vote.

Section 2. A vote shall be recorded at the request of any voting member upon being seconded by another voting member.

Section 3. At least five (5) affirmative votes are required for the commission to take any action.

Section 4. Any voting member may allow a proxy, designated in advance in writing, to cast a vote on his or her behalf. However, for the Commission to take any action, at least five (5) the affirmative votes must be cast by members appointed under Article I, Section 1 and IC 14-13-9-9.

IV. OFFICERS

Section 1. Election of Officers

At the first meeting following July 1 of every year, the Commission shall elect from among its voting members a Chair, Vice-Chair, Secretary, and Treasurer.

Section 2. Terms of Officers

The terms of officers shall last no more than one (1) year. Officers may be re-elected, although it is the goal of the Commission to encourage a regular rotation of members serving as officers.

Section 3. Duties of the Chair

The Chair shall preside over meetings of the Commission, appoint the chairpersons and members of all standing committees, appoint special committees, and serve as an ex-officio member of all standing committees. The Chair shall represent all other functions usually attributed to the office.

Section 4. Duties of the Vice-Chair

The Vice-Chair shall perform the functions usually attributed to the office, including chairing meetings of the Commission when the Chair is absent. The Vice-Chair shall become Chair when the Chair position becomes vacant.

Section 5. Duties of the Secretary

The Secretary shall ensure accurate minutes of all meetings of the Commission and standing committees, ensure the maintenance and safekeeping of official files, and assist the Chair with official correspondence, and maintain a roll of members.

Section 6. Duties of the Treasurer

The Treasurer shall oversee the funds of the Commission, a duty which includes monitoring their disbursement as authorized by the Commission; ensuring the accurate accounting or receipts and disbursements; making reports to the Commission; verifying annual financial statements for official report or publication; assist in the drafting of the annual budget; and ensuring the submission of all reports required by law. The treasurer of the commission may receive, disburse, and handle money belonging to the commission, subject to applicable statutes and procedures established by the commission.

Section 7. Other Officers

The Commission may establish and fulfill other offices it deems necessary.

Section 8. Vacancies

In the case of a vacancy of in the position of Chair, the Vice-Chair shall become the Chair for the remainder of the Chair's unexpired term. In the event of vacancies of all other offices, the Commission may elect from among the voting members a replacement to complete the unexpired term of the vacated office.

V. DUTIES OF COMMISSION MEMBERS

Section 1. Meeting attendance and conduct

Members are expected to attend all or a substantial number of Commission meetings; to participate in Commission discussions; to share their unique expertise with the Commission and the public; to act and speak with civility; to promote good order; and to avoid impugning the views or motives of other Commission members.

Section 2. Fulfillment of Legal Obligations

Members are expected to help fulfill and exercise the powers, duties, and obligations of the Commission as defined in IC 14-13-9 and elsewhere in Indiana law.

VI. MEETINGS

Section 1. Frequency

The Commission shall meet no less than four times per year. Otherwise, the Commission shall meet on the call of the Chair, the Commission's Executive Director, or a quorum of voting members.

Section 2. Meeting Conduct

Unless otherwise stated in these bylaws, all meetings shall be conducted in a manner consistent with *Robert's Rules of Order* as revised and updated from time to time.

Section 3. Remuneration of Commission Members for Meetings

Commission members are entitled to per diem and travel reimbursement as permitted under IC 4-10-11-2.1(b) and travel policies and procedures established by the Indiana Department of Administration.

VII. TECHNICAL ADVISORY COMMITTEE

Section 1. Establishment

Indiana law establishes a formal advisory committee comprised of the North-Northwest Regional Director of the Indiana Association of Soil and Water Conservation Districts and the Surveyor of each county represented on the Commission. However, if a Surveyor is appointed to the Commission, the

county executives in that county shall appoint an advisory committee member in the place of the surveyor.

Section 2. Chair

The first Chair of the Technical Advisory Committee shall be appointed by the Chair of the Commission. The Committee may select other officers it deems necessary. Effective July 1, 2020, all officers shall be elected by a vote of the Committee.

Section 3. Records

The Committee shall keep a record of all of its business and recommendations.

Section 4. Meetings

The Committee shall meet at the direction of the Commission.

Section 5. Duties

At the direction of the Commission, the Committee shall receive information, conduct hearings, and issue written recommendations regarding the Commission's work, projects, and plans.

Section 6. Remuneration for Meetings

Committee members are not entitled to per diem or mileage expense reimbursement, although the Commission may decide to budget resources for this purpose.

VIII. OTHER COMMITTEES

The Chair of the Commission may appoint special committees and advisory committees, including but not limited to a budget committee, nominating committee, personnel committee, and communications committee.

IX. STAFF

The Commission may employ an Executive Director and other persons deemed necessary to advise the Commission and carry out its policies, procedures, and directives.

X. BUDGET

The Commission shall adopt an annual budget as soon as practicable in each calendar year, and submit the budget to each county, municipality, or agency appropriating money for the use of the commission. After approval of the budget by the commission, money may be expended only as budgeted unless a majority vote of the commission authorizes other expenditures.

XI. RECORDS

The commission shall keep a record of the commission's resolutions, transactions, and findings. Such records shall be made available to the public in a manner consistent with Indiana law.

XII. AMENDMENTS

These bylaws may be amended by majority vote at any regular meeting of the Commission, provided that proposed amendments have been sent to the Commission at least two (2) calendar weeks in advance of the meeting.

ATTACHMENT 2 – EXECUTIVE DIRECTOR’S REPORT

EXECUTIVE DIRECTOR’S REPORT

To: KRB-YRBDC Members
From: Scott D. Pelath, Executive Director
Date: July 16, 2019

As we assemble the functioning parts of a new organization, I have striven to provide you with the information needed to support key decisions. While I know it has seemed voluminous at times, I expect it will reduce to a manageable amount in the future as we become more experienced and familiar with our challenges. It is a time of change, and things always get a little harder before they get a little easier.

Finances

As of the date of this memorandum, the Commission currently has \$664,820.44 in our checking account. As of June 30, our cash position according to our accountant at NIRPC was 613,928.38, with \$313,280.06 uncommitted.

We are fortunate to have this prudent reserve at this juncture. As we will discuss, we will face some unavoidable transition costs with respect to accounting, public information, and other administrative obligations. The commodity revenue generated from the Thayer Farm was budgeted for \$20,000, and is now expected to be zero. Most significantly, we have more river gage obligations, and our contracts with USGS will have to be renewed or renegotiated at the beginning of the next calendar year.

Of the committed dollars, the most significant obligations are \$130,046.22 in counties’ emergency reserve funds, the remaining budgeted administrative expenses for the year, remaining payments for river gages, and \$37,483.06 allocated to Jasper County.

Given our cash position, I also ask that we consider several unavoidable administrative expenses:

- 1) **Member Mileage and Per Diem.** I have run several scenarios, and I anticipate that member mileage (\$0.38/mile) will cost around \$160 per month with full attendance. The state travel office also informed me that the salary per diem rate for members would be \$35 for a meeting. However, we also will be holding some public information meeting this year, and I would at least like to cover the mileage of attending members. An additional \$3000 should

cover the remainder of the calendar year comfortably, especially if some members driving county-owned vehicles forgo mileage reimbursement.

- 2) **Accounting and SBOA compliance.** This one will hurt a little, but NIRPC has given us a revised proposal for accounting and SBOA compliance services for the remainder of CY 2019 and the entirety of CY 2020.

In essence, we would pay for a percentage of a full-time accountant at NIRPC, and that person would implement, troubleshoot, and execute a new QuickBooks electronic accounting system.

NIRPC originally proposed that we pay for half of the accountant's salary, fringe benefits, and overhead (they have to charge overhead; federal dollars and rules). I agreed that the start-up phase it might require half-time staff, but was skeptical of the time requirements thereafter. After discussion, I suggested revising the proposal to a 50-percent time allocation for CY 2019 and then a 25-percent allocation for CY 2020. That could knock about \$20,000 off of the seventeen-month cost.

The accounting software and technical support should cost about \$150 per month. For that we will receive full accounting, electronic check issuance, and payroll services.

We already have \$6400 left on our current NIRPC contract, and for the remainder of the calendar year, the cost would increase by approximately \$17,000 for personal services and \$1000 for software. For CY 2020, the cost would be approximately \$28,000 for the accountant and another \$1800 for the accounting system.

Could we find a private accounting firm that might manage significant resources for less money? Yes, particularly with respect to overhead expenses. So, what do we get for this?

We get people with lengthy SBOA experience. We get the credibility and reliability of an established agency caring for our books. We get an added layer of public accountability. We continue a partnership with an agency that is technically responsible for approving our master plan. We maintain a continuity of the accounting function. We get less worry. Most importantly, we cannot live with this paper system any longer. We need the accuracy and projections that an electronic system provides.

The public is more patient that they often are credited for, but not so much with financial mistakes. There is added value in credibility, stability, and reliability.

- 3) **Website.** The KRBC budgeted \$2000 for the website. It is going to cost \$6000-\$7000 for the existing vendor to completely revamp the website for the new commission.

In a previous memorandum, I mentioned some ways to carve cost out of the proposal. We could also bid out work, although that will delay the launch of important public information and the Commission's online presence.

Fortunately, or unfortunately, a website is a basic expectation of an organization. I already had a reported ask why we did not have one yet; I had to politely explain the order of business before that would have one.

- 4) **Legal services.** The Office of the Attorney General is willing to staff our Commission directly for \$150 per hour. Everyone will have an attorney they like better, but we are unlikely to find a better rate than that in the marketplace. They are willing to serve us under an MOU as they do the Northwest Indiana RDA and the White River Commission.
- 5) **Taxes.** The new law makes the KRBC director an employee of our Commission. Previously, Jody Melton was technically a NIRPC employee, and I was signed to an independent contact agreement outside of the NIRPC umbrella.

There are payroll tax and withholding implications for this, particularly with respect to FICA and FUTA. I carry my own workers compensation and general liability coverage as required by my current contract.

I respectfully request that a personnel committee be appointed to work with me on this transition. This is one area where I request direct governance involvement to ensure compliance with the law and necessary oversight.

- 6) **Underbudget areas.** I do not expect we will come close to spending the \$2000 allocated for property maintenance and insurance. We may owe some drainage assessments on our Sumava Resorts parcels, and I was planning to pay from that fund. We have used very little postage and copying, and I have only paid one minor association membership fee. My mileage has been down since the legislature adjourned. There is probably \$3000 in savings in those areas. We also have small remaining county allocations for river work that either need to be drawn down, moved over into emergency accounts, or reallocated.
- 7) **Revenue.** Most of the counties have now paid their annual assessment. The tenant at the River's Edge Farm has not yet made a rent payment, and that is becoming a matter of quiet

concern. The state is directing a 2-percent reserve for our administrative allocation, which really means they are keeping \$1100. I am in communications with the State Budget Agency about our \$2.3 million appropriation.

Public Information

In recent weeks I have spoken at an IUSB conservation consortium, the Marshall County Drainage Board, the Starke County Commissioners and Starke County Council, the LaPorte County League of Women Voters, the LaPorte County Soil and Water Conservation District Annual Legislate Breakfast, and the Porter County Soil and Water Conservation District. Those are just ones I can immediately recall.

IC 14-13-9 requires us to hold sixteen public information meetings in advance of the assessments taking effect in 2021. We already have two scheduled for Stark County, and more will be planned in the coming weeks and months.

The law gives no guidance or enforcement measure for how the meetings are to be advertised or conducted. It merely states that we are to hold two meetings per county, explain our plan, and describe how assessments will be used. I could probably argue that I already have held public meetings that meet this standard, but then we would miss the opportunity to learn from those we serve.

In any case, while I probably could do these meetings on my own, it would be highly beneficial if at least some Commission members were present, both to add some formality and so commissioners can hear what I hear.

Technical Advisory Committee

My perhaps overly optimistic goal was to convene the statutorily-defined Technical Advisory Committee before the end of the calendar month. While they operate under the direction of the Commission, I expect them to be a valued part of our overall operations.

My goal is that they will begin reviewing the Burke Report and submit some written recommendations to the Commission prior to our August meeting. I intend to staff the committee, as I do the Commission, in order to support their work and ensure formality of communications and recommendations.

Bylaws

I have already submitted draft bylaws for the Commission. I do not claim they are perfect or the only sensible way to conduct business, but I do claim that they are adequate and highly necessary. If we find we do not like something within them, we can always change at any reasonable time.

I have gone on too long already, but I aim to provide reference for questions I can conceive being asked. If anything with respect to finances changes between now and Thursday, I will amend my report at our meeting.

As always, should you have any questions please email me at sdpelath@gmail.com or (219) 861-7999, and I would be delighted to talk or communicate as long would be helpful to you. We have many important decisions ahead.

ATTACHMENT 3 -



6100 Southport Road
Portage, Indiana 46368
(219) 763-6060
www.nirpc.org

July 17, 2019

Mr. Scott Pelath
Executive Director
Kankakee River Basin and Yellow River Basin Development Commission

RE: Proposal for Accounting Support Services for the Kankakee River Basin and Yellow River Basin Development Commission.

Dear Scott,

As you know, the Northwestern Indiana Regional Planning Commission (NIRPC) has been a key partner with the previous Kankakee River Basin Commission for many years and has continued to provide accounting support services for you during this transition period.

At this time, I am pleased to present the attached proposal for the provision of modernized Accounting Support Services to the new Kankakee River Basin and Yellow River Basin Development Commission (KRBVBD). We have included estimates of staffing costs for a seventeen (17) month term beginning August 1, 2019, as well as two options for building a modern, secure, cloud-based accounting system for your new organization that will be capable of handling the expanded financial responsibilities of your new organization efficiently.

Sincerely,

Kathy Luther
Chief of Staff



PROPOSAL FOR ACCOUNTING MODERNIZATION AND SUPPORT SERVICES

HISTORY

The Northwestern Indiana Regional Planning Commission (NIRPC) has been a supporting partner of the Kankakee River Basin Commission for over 40 years. During that time, NIRPC provided basic accounting support services such as payroll administration, tax compliance, and bank reconciliation through paper ledger accounting systems. NIRPC has a strong history of excellence in financial management and accounting through our fifty years of operation. During the transition to the Kankakee River Basin and Yellow River Basin Commission we have continued to maintain this service to provide Executive Director Scott Pelath with continuity and confidence that our history with the organization allows. As the new Commission moves forward, the increasing fiscal responsibilities of the new organization require a new look at financial management.

PROPOSAL

This proposal is for a seventeen (17) month contract to begin August 1, 2019 and end December 31

NIRPC proposes that from August through December of 2019 one-half Full Time Equivalent (FTE) of a qualified Staff Accountant be dedicated to the Commission's Accounting Support. The new organization will require a new Chart of Accounts to properly track the various revenue and expenses anticipated over the coming years. This dedicated staff time will allow for concentrated attention to the needs of your new Commission. It will also provide a qualified person to aid in the transition to a modern computerized accounting system. In 2020, we propose to reduce the KRBDRBDC staff accountant support to one quarter FTE.

ACCOUNTING SUPPORT BUDGET

NIRPC estimates that a competitive salary to attract an accountant qualified to meet your needs to be approximately \$45,000 per year. Our request at this time is for the Commission to commit to a 17 month contract, funding 50% of this FTE for the balance of 2019 and 25% through calendar year 2020. A full-time FTE of direct salary at NIRPC is the equivalent of 1630 billable hours. The table below estimates the staff hours, the fringe allocation and overhead allocation for these hours.

Re: QuickBooks Online Plus with Payroll Features & Quote

1 message

Tue, Jul 9, 2019 at 12:13 PM



Daria Sztaba <dsztaba@nirpc.org>

Kathy Jones <kjones@nirpc.org>, Kathy Luther <kluther@nirpc.org>

Talaya,

You may forward this e-mail to Scott with a little additional information. The proposal is not that clear for someone who was not on the phone call. I have checked the demo and the system on line is very simple to navigate.

Daria.

On Tue, Jul 9, 2019 at 11:53 AM Bryant, Touja <Touja_Bryant@intuit.com> wrote:

Hi Daria,

Thank you for taking the time to discuss your business needs with me. I have included your quote along with an overview of the features in QuickBooks Online Plus with Full Service payroll. We get credit for our sales, so I would greatly appreciate you allowing me to take care of your business needs when you are ready. **Please contact me when you are ready to begin your QuickBooks Product.**

Please click the QuickBooks Online Demo below:

[QuickBooks Online Sample Company](#)

This sample illustrates all the possible features in QuickBooks Online.

QuickBooks Online Plus

- Add up to 5 users + 2 accountants
- Accessible from a Windows, Apple, or mobile phone
- Send and track custom invoices & Recurring invoices
- You can get paid directly online through you invoices. There is no additional cost. If you want to accept ACH payments, that is FREE. If you want to allow credit card payments, there is a fee of 2.9% + 0.25 per transaction.
- Track income and expenses
- **Track income and expenses by location or class**
- Create and manage estimates
- Sync your bank accounts
- Enter bills and schedule payments for later
- Receive bills and assign to a Vendor/Customer
- Automate Recurring Payments
- Track billable hours
- Multiple Currencies

Full Service Payroll Features:

- Easily pay W2 employees and 1099 contractors through direct deposit or paper check
- **We file your Federal, State, W2s and Local payroll taxes, you just submit the payroll checks**
- **Same Day Direct Deposit for employees**
 - Customers can run their payroll up until 7 AM PT the morning of payday.
 - Their employees get paid by the end of the same day
- **Employee & 1099 self-setup**

You can invite the employee/contractor to fill out their W2 and W9 information.

July 17, 2019

Scott Pelath
Kankakee River Basin Commission Yellow River Basin Commission
219-861-7999

Dear Scott:

AccuFund, Inc. is pleased to provide this proposal for AccuFund Cloud Service to Kankakee River Basin Commission Yellow River Basin Commission. The AccuFund® Accounting Suite is geared to organizations like yours that have complex reporting needs and want an affordable yet powerful accounting solution to meet those needs.

- Wide and deep accounting functionality
- Optional modules available as your needs grow and change
- Flexible Financial Reporting to meet your managerial and compliance needs
- Experienced consultants to help you and your team get up-and-running in an efficient manner

AccuFund will provide you with a complete accounting solution that will provide you with an affordable and flexible solution that will satisfy your accounting system needs for many years. We look forward to your approval of this proposal, and to working with you.

Sincerely,

Michael Anthony
Customer Success Manager
michaela@accufund.com
877-872-2228 x505

Enclosures



AccuFund Cloud Quote Standard Edition

AccuFund Core System	1	435	435
1 Concurrent User included			
Additional Full User	1	67	67
Payroll	1	125	125
Purchasing	1	63	63
Accounts Receivable w/Inventory	1	63	63
Total Monthly Fee			816
Special Discount - 15% Monthly First Year			(122)
Quarterly Billing Amount-First Year			2,081
Quarterly Billing Amount - Subsequent Years			2,448
Estimate of Consulting Services	160	200	32,000
One-Time Setup Fee			500
TOTAL DUE AT CONTRACT			20,661.60
Includes first 6 months of Hosted Service			
Setup fee			
50% Services Billed to Retainer			

Quote Valid Through September 30, 2019

Terms & Conditions

- Complete Hosting Agreement to be executed upon acceptance
- **AccuFund, Inc. shall provide the following as part of the AccuFund Online service"**
 - Access to software modules as defined in service quotation in Schedule A for the number of concurrent users listed on an internet-accessible server.
 - Access to AccuFund Support via Phone, email, remote assistance and Customer Portal
 - Set up of the system including the number of concurrent users listed. Additional named users may be added for a fee as defined in Schedule A.
 - Installation of a database provided by the consultant as part of initial setup two times.
 - Daily backup of software. Dailies are kept for five days, Fridays for four weeks, and last day of the month for 12 months.

- Restoration of backup as needed. One per quarter at no charge, additional restorations at current hourly fees.

Professional Services Detail

- Services to be provided in person or remotely – as agreed upon between parties
- Services is an estimate only based on our experience. Client will only be billed for actual time worked
- Consulting Agreement to be executed upon acceptance

AccuFund Core System	20	20	8
Additional Users			
Accounts Receivable	4	4	
Purchasing	8	12	
Payroll	24	20	16
Financial Reports	12	12	0
Totals	68	68	24
Grand Total Hours	160		

Acceptance

Please fax or email signed quotation to order product along with any documentation required by your organization such as a Purchase Order number for billing purposes.

Signature

Date

Printed name and title if different than above

I certify that I am authorized to order the above listed products for the organization listed above.

July 17, 2019

Scott Pelath
Kankakee River Basin Commission Yellow River Basin Commission
219-861-7999

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Sincerely,

Michael Anthony
Customer Success Manager
michaela@accufund.com
877-872-2228 x505

Enclosures



AccuFund Cloud Quote Standard Edition

AccuFund Core System	1	435	435
1 Concurrent User included			
Additional Full User	2	67	134
Payroll	1	125	125
Purchasing	1	63	63
Accounts Receivable w/Inventory	1	63	63
Total Monthly Fee			883
Special Discount - 15% Monthly First Year			(132)
Quarterly Billing Amount-First Year			2,252
Quarterly Billing Amount - Subsequent Years			2,649
Estimate of Consulting Services	160	200	32,000
One-Time Setup Fee			500
TOTAL DUE AT CONTRACT			21,003.30
Includes first 6 months of Hosted Service			
Setup fee			
50% Services Billed to Retainer			

Quote Valid Through September 30, 2019

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 - Access to software modules as defined in service quotation in Schedule A for the number of concurrent users listed on an internet-accessible server.
 - Access to AccuFund Support via Phone, email, remote assistance and Customer Portal
 - Set up of the system including the number of concurrent users listed. Additional named users may be added for a fee as defined in Schedule A.
 - Installation of a database provided by the consultant as part of initial setup two times.
 - Daily backup of software. Dailies are kept for five days, Fridays for four weeks, and last day of the month for 12 months.



- Restoration of backup as needed. One per quarter at no charge, additional restorations at current hourly fees.

Professional Services Detail

- Services to be provided in person or remotely – as agreed upon between parties
- Services is an estimate only based on our experience. Client will only be billed for actual time worked
- Consulting Agreement to be executed upon acceptance

AccuFund Core System	20	20	8
Additional Users			
Accounts Receivable	4	4	
Purchasing	8	12	
Payroll	24	20	16
Financial Reports	12	12	0
Totals	68	68	24
Grand Total Hours	160		

Acceptance

Please fax or email signed quotation to order product along with any documentation required by your organization such as a Purchase Order number for billing purposes.

Signature

Date

Printed name and title if different than above

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July 17, 2019

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Sincerely,

Michael Anthony
Customer Success Manager
michaela@accufund.com
877-872-2228 x505

Enclosures



AccuFund Cloud Quote Standard Edition

AccuFund Core System	1	435	435
1 Concurrent User included			
Additional Full User	3	67	201
Payroll	1	125	125
Purchasing	1	63	63
Accounts Receivable w/Inventory	1	63	63
Total Monthly Fee			950
Special Discount - 15% Monthly First Year			(143)
Quarterly Billing Amount-First Year			2,423
Quarterly Billing Amount - Subsequent Years			2,850
Estimate of Consulting Services	160	200	32,000
One-Time Setup Fee			500
TOTAL DUE AT CONTRACT			21,345.00
Includes first 6 months of Hosted Service			
Setup fee			
50% Services Billed to Retainer			

Quote Valid Through September 30, 2019

Terms & Conditions

- Complete Hosting Agreement to be executed upon acceptance
- **AccuFund, Inc. shall provide the following as part of the AccuFund Online service"**
 - Access to software modules as defined in service quotation in Schedule A for the number of concurrent users listed on an internet-accessible server.
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 - Set up of the system including the number of concurrent users listed. Additional named users may be added for a fee as defined in Schedule A.
 - Installation of a database provided by the consultant as part of initial setup two times.
 - Daily backup of software. Dailies are kept for five days, Fridays for four weeks, and last day of the month for 12 months.



- Restoration of backup as needed. One per quarter at no charge, additional restorations at current hourly fees.

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- Services to be provided in person or remotely – as agreed upon between parties
- Services is an estimate only based on our experience. Client will only be billed for actual time worked
- Consulting Agreement to be executed upon acceptance

AccuFund Core System	20	20	8
Additional Users			
Accounts Receivable	4	4	
Purchasing	8	12	
Payroll	24	20	16
Financial Reports	12	12	0
Totals	68	68	24
Grand Total Hours	160		

Acceptance

Please fax or email signed quotation to order product along with any documentation required by your organization such as a Purchase Order number for billing purposes.

Signature

Date

Printed name and title if different than above

I certify that I am authorized to order the above listed products for the organization listed above.

- Track your products you sell and/or your services you provide
- Track your income and expenses per project/job
- Create Purchase Orders

- Create budgets and run budget reports
- Categorize income and expenses by department or location

- Create checks for 1099 contractors



- Prepare and print year-end 1099s
- Includes unlimited technical support and data protection

Products and Options

Net Price

80.00 plus \$4 per employee / month

(After 3 months: \$150.00 plus \$4 per employee / month)

Annual pricing is available on the Plus plan Only which takes off an additional 10%*

Intuit QuickBooks Online Plus with Full Service Payroll

660.00 vs 755.00

Quote Expiration Date: 7/12/2019

Terms

This quote is not a binding contract.

Pricing and terms are subject to change at any time.

I look forward to hearing from you,

D A R I A S Z T A B A | CHIEFFINANCIAL OFFICER
 NORTHWESTERN INDIANA REGIONAL PLANNING COMMISSION
 (219) 763-6060 EXT 104 DSZTAB@NIRPC.ORG WWW.NIRPC.ORG

Staff costs are estimated as follows below:						
Staff Accountant @ \$45,000/year Salary	FTE (%)	Approx. hours	Salary	Fringe	Indirect (Overhead)	SubTotal
2019	50%	340	\$ 8,450	\$ 7,350	\$ 7,350	\$ 23,150
2020	25%	408	\$ 10,140	\$ 8,215	\$ 9,735	\$ 28,090
TOTAL		748	\$ 28,725	\$ 23,775	\$ 26,815	\$ 51,240

Total Staff Costs for August 1, 2019 – December 31, 2020: \$51,240

Additional expenses billed as follows :

Copier Usage: \$5.00 per month

+ \$0.06 per page for black and white copies

+ \$0.20 per page for color copies

MODERNIZATION:

NIRPC has obtained cost estimates for two accounting systems.

Option 1: Commercial "Off the Shelf" Accounting Cloud Based System

Quickbooks On-line Plus with Full-Service Payroll: \$80/month for 3 months, \$150/month subsequent months. (Option to pay one full year for \$660.) Per employee additional fee of \$4/month.

Estimated total cost for 17 months = \$1,224 (no contract required)

Detailed Quickbooks Quotes are attached.

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Option 2: Professional Customizable Accounting System (similar to what NIRPC currently uses)

AccuFund Cloud is a system specifically designed for the special reporting and compliance needs of government and non-profit organizations and customized to your organization. We have three cost estimates for building an AccuFund Cloud system for your organization.

The costs vary primarily by the number of users you would need to be able to access your accounting system. At minimum NIRPC believes that your staff accountant and Executive Director Scott Pelath should have access. NIRPC might recommend an additional access for the NIRPC Chief Financial Officer should back up be needed here. A fourth additional access could be provided to the Commission's Chair or Treasurer if desired. Detailed AccuFund Cloud Quote is attached.

ACCUFUND Cloud Quote:	4 users	3 users	2 users
Due at Contract signing			
(first 6 months)	\$21,345	\$21,003	\$20,662
Quarterly Billing Year 1	\$ 2,423	\$ 2,252	\$ 2,081
<u>Professional Services</u>	<u>\$32,000</u>	<u>\$32,000</u>	<u>\$32,000</u>

ATTACHMENT 4 – ON-SITE PROPOSAL

6/19/2019

Estimate# 21529246



580 N. INDIANA AVE.
Crown Point, IN 46307
(219) 663-7483
STAFF@NEEDONSITE.COM

Estimate

ESTIMATE#	21529246
DATE	06/11/2019
PO#	19-KRBC-002

CUSTOMER
Kankakee River Basin Commission Scott Pelath 6100 Southport Road Portage, IN 46368 (219) 763-6060

SERVICE LOCATION
Kankakee River Basin Commission Scott Pelath 6100 Southport Road Portage, IN 46368 (219) 763-6060

DESCRIPTION	Estimate for redesign, development, implementation, servicing, and maintenance of kankakeeriverbasin.org website
-------------	--

Description	Qty	Rate	Total
Web/Cloud/Web Development David Wichlinski	55.00	\$105.00	\$5,775.00
Monthly Site Maintenance, Updates, and Changes	12.00	\$105.00	\$1,260.00
WordPress Theme template integration- TownPress	1.00	\$90.00	\$90.00
IDrive Cloud-based daily site backup	12.00	\$75.00	\$900.00
Monthly Traffic Report Monthly report detailing site traffic, demographics, and activity	12.00	\$50.00	\$600.00
Drone Photography and Video On-premise use of a drone for capturing video and images	3.00	\$105.00	\$315.00

CUSTOMER MESSAGE

Estimate Total: \$8,949.00

[https://admin.servicefusion.com/printEstimate?estId=J-FKgjaoIRVgd84oqeQuZPoKytrbvYMe\\$YUdici](https://admin.servicefusion.com/printEstimate?estId=J-FKgjaoIRVgd84oqeQuZPoKytrbvYMe$YUdici)

1/1

ATTACHMENT 5 – COMPETITIVE BIDDING POLICY DRAFT

KANKAKEE RIVER BASIN AND YELLOW RIVER BASIN DEVELOPMENT COMMISSION COMPETITIVE BIDDING POLICY

I. Scope of Activities

The Commission is responsible for the approval and processing of all requisitions and project requests for all new construction within seventy-five (75) feet of the Kankakee and Yellow Rivers in Indiana. These duties include the following:

- (1) Making on-site investigations to ascertain the following:
 - (A) The physical need for a proposed project.
 - (B) The judgment of its economic justification.
- (2) Making recommendations for the selection of architects and engineers for the design of projects where the project is too large or complicated to be performed by the Commission.
- (3) Designing and writing the specifications for projects.
- (4) Supervising the advertising and bidding of contracts for construction.
- (5) Analyzing the bids and making awarding contracts.
- (6) Composing and administering design and construction contracts with the successful contractors.
- (7) Making periodic visits to construction projects and conferring with the designer regarding progress and approval of construction.
- (8) Approving all payments to designers and contractors.
- (9) Making a final inspection of the construction.
- (10) Accepting the construction on behalf of the Commission.

II. Definitions

The following definitions apply throughout this policy:

- (1) "Approved bidder" means a bidder who is prequalified with the Commission.
- (2) "Bid" means a sealed proposal to construct or perform services as set out in the information to bidders.
- (3) "Bidder" means a supplier or contractor who submits offers to construct or perform services for the department.
- (4) "Bid officer" means the representative of the Commission responsible and in charge of the bid opening.
- (5) "Commission" means the Kankakee River Basin and Yellow River Basin Development Commission.
- (6) "Contract designer" means any architect, engineer, or other professional under contract with the Commission to perform certain consultant or design services for the Commission.
- (7) "Contractor" means any firm supplying construction or other services to the Commission under a direct contract with the Commission.
- (8) "Designer" means any architect, engineer, surveyor, or other professional who:
 - (A) by formal training or registration, or both, are otherwise legally authorized to perform services and design work for the state; and
 - (B) may be either a contract or state designer.
- (9) "Director" means the Executive Director of the Commission.
- (10) "Inspector" means an employee, contractor, or designee of the Commission having the responsibility for review of progress on Commission construction projects.
- (11) "Contractual service" means a professional firm who by formal training, registration, or are otherwise legally authorized by the manufacturer or supplier to perform maintenance or repair services on complicated or specialized equipment or controlled systems.
- (12) "Project manager" means a professional employee, contractor, or designee assigned to coordinate projects.
- (13) "State Designer" means any architect, engineer or other professional or technician performing certain design services for the Commission while within the employ of the State of Indiana or any of its units of local government.
- (14) "Subcontractor" means any firm supplying construction or other services to the contractor under a contract with the contractor.

III. Approved Designer List and Selection of Designer

Sec. 1. The Commission shall maintain a list of prequalified state designers and contract designers, which may include: (1) architects; (2) engineers; (3) surveyors; and (4) other professionals who have expressed an interest in performing work for the Commission.

Sec. 2. A state designer or contract designer desiring to do design work for the Commission must, as an act prior to being considered for such services, supply all of the pertinent information required by the Commission and obtain prequalification approval of the Commission.

Sec. 3. For any project for which the Commission determines the assignment of a contract designer is required:

- (1) the director shall recommend at least three (3) who:

- (A) qualify in the particular classification of work; and
- (B) are currently in good standing with the Commission; and

(2) the Commission shall select a contract designer in manner consistent with Articles V and VI of this policy.

A contract designer must demonstrate personnel availability and that work in progress will warrant that the work contemplated can be done in a timely manner. The contract designer shall not subcontract any of the contracted design work, considered to be part of the prime contract work, except those functions normally subcontracted in similar circumstances, and the proposed subcontract professionals shall be subject to the same pre-qualifications as the contract designer and must be approved for the subcontract design work by the director before use. Approval of a contract design firm shall only be considered where a sufficient number of the personnel of the firm shall have valid professional qualification and requisites to ensure intimate, competent control over all facets of the design work under consideration as evidenced by professional registration.

Sec. 4. The director shall be responsible for seeing that all points of the designer contract are adhered to administratively. Should the designer fail to so adhere to the contract to any significant degree, the director shall inform the Commission and/or Attorney General of this fact and request guidance in the successful promulgating of the design contract.

Sec. 5. The designer shall make every effort possible to ensure that the scope and cost of the project remains within the budget allocation. Where bids received exceed the allocated funds by more than ten percent (10%) and additional funds are not available:

- (1) the designer shall redesign the work, at no additional cost to the Commission, to a cost within the allocation; or
- (2) the project shall be abandoned;

at the option of the Commission.

IV. Approved Contractors List and Contractors Qualifications

Sec. 1. The Commission shall maintain a list of prequalified contractors who, by an application to the Commission, have expressed an interest in contracting with the Commission to perform construction work within the limits of their prequalification.

Sec. 2. A contractor desiring to perform construction work for the Commission must, before being allowed to bid on projects with a valuation of one hundred fifty thousand dollars (\$150,000) or more:

- (1) apply to the Commission supplying all of the pertinent information required by the Commission; and
- (2) obtain their prequalification approval;

as set out in this article. A contractor shall not be considered to have legally received plans on a particular project having a valuation of one hundred fifty thousand dollars (\$150,000) or more without being prequalified by the Commission.

Sec. 3. Any subcontractor proposing to do work that has a valuation of one hundred fifty thousand dollars (\$150,000) or more shall also be prequalified as set forth in this policy before the subcontractor begins any work on the site.

Sec. 4. Any prime contractor or subcontractor doing work for the Commission is required to complete at least (20%) twenty percent of the work, measured in dollars of the total contract price, with his or her own forces.

V. Solicitation of Bids

Sec. 1. (a) When the estimated cost of construction is less than seventy-five thousand dollars (\$75,000), contracts may be issued without taking competitive bids upon receipt of at least one (1) offer from contractors interested in the subject project.

(b) Competitive bids shall not be required for contractual services where:

(1) no competition exists, such as:

(A) manufacturer representatives' expert service on specialized equipment; and

(B) rates or prices are fixed by law or ordinance; or

(2) purchases are made from the United States government.

Competitive bids shall not be required for repair parts for machinery or equipment that can only be procured from the manufacturer of the machinery or equipment

Sec. 2. When the estimated cost of construction is valued at seventy-five thousand dollars (\$75,000), sealed bids shall be solicited in a manner consistent with IC 4-13.6-5-8, excluding the requirement of publication in Marion County.

Sec. 3. The Commission or the director may authorize contracts to perform necessary work or construction in a flood emergency without calling for bids under normal procedures. Authorization for such emergency work will be given verbally by the commissioner or the director if so delegated.

Sec. 4. It shall be the intent of the Commission to make every effort in the scope and design of the project to ensure that the low bid will be within the allocation prior to soliciting bids in order to preclude the bidders from expending efforts and costs to formulate bids with little possibility of being awarded and in so doing divulging their bid to others prior to a possible rebid.

VI. Receipt and Acceptance of Bids

Sec. 1. All bids shall be received prior to the appointed bid opening time, in a location appointed by the Commission and shall be dated and time stamped showing the time and date of receiving the bid.

Sec. 2. Bids shall be contained in a sealed envelope:

- (1) with the bidder's name and address clearly shown; and
- (2) plainly marked as a bid with job and time identification stated.

Sec. 3. The bid officer shall, immediately before the designated time for acceptance of bids for projects estimated at one hundred fifty thousand dollars (\$150,000) or more, review the prequalification of all bidders submitting bids. If:

- (1) a bid packet is received; and
- (2) the bidder is not currently prequalified with the Commission;

the bid shall be rejected.

Sec. 4. All bids shall be opened publicly and read at the place and time stated in the public notice and/or instructions to bidders, unless some condition or situation makes it impractical or impossible to do so. Should the time of opening be delayed or place of opening be changed for reason, every effort shall be expended in bringing knowledge of the change to the interested bidders as soon as the need for such a change becomes known to the Director. Bids shall never be opened prior to the appointed time.

Sec. 5. All bids shall conform to all applicable requirements of the specifications including the instructions to bidders, general conditions, and special conditions. The director shall:

- (1) tentatively reject any bid failing to adhere to or conform to such;
- (2) inform the Commission of this fact; and
- (3) await a decision as to the acceptability of the bid.

The intent of the Commission is to not waive technicalities of the bidding procedure. The award of a contract shall be made on the basis of the lowest responsible and responsive bid consistent with the Indiana contractor preferences and Indiana worker employment goals established by state law.

Sec. 6. If after proper solicitation of bids, only one bid is received, the director shall make a thorough review of the situation in consort with the Commission to determine whether the one bid should be accepted or rejected and rebid. In making this judgment they should consider the type of work, its competitiveness, the timely need of the project, the possibility of unfavorable prices if rebid, the possible loss of the low bidder if rebid, and the equitable fairness to the single bidder of having his bid divulged to subsequent bidders if the project is rebid.

Sec. 7. A bid significantly below the other bids or the project cost estimate shall not be treated as prima facie evidence of mistake and no bid will be rejected based on presumed error in bid. In such instances the director shall ask the low bidder, if represented at the opening, to quickly confirm his bid, while the bid opening is still in session, and if an error is alleged to have been made to submit evidence of such error in a timely manner to the director, for consideration by the

Commission. If the apparent low bidder is not present at the bid opening, the director shall contact him as soon as possible and secure a confirmation of his bid or evidence of error.

Sec. 8. If the low bid exceeds the allocation, and additional funds are requested but not approved, then bids shall be rejected and project suspended or rebid with design revised in value equivalent to the overrun.

VII. Award of Contracts

Sec. 1. For all proposals under seventy-five thousand dollars (\$75,000), the designer shall make a recommendation to the director as to acceptance or rejection of the bids. If the director concurs in a recommendation for acceptance, a letter type contract may be sent to the successful bidder with approval by the Commission. For bids that exceed seventy-five thousand dollars (\$75,000), the designer, after a full review of the bid and discussion with all interested parties to the bid, shall make recommendation to the director as to acceptance or rejection of the bids. If the director concurs in a recommendation for acceptance, the director shall compose a formal contract for the signature of the Commission's chair for said work after determining that funds are available. If bids are rejected, the director shall consult all parties concerned to ascertain the advisability of rebidding or canceling the project.

Sec. 2. A bid may only be awarded to a responsible contractor. Factors to be used in making a responsibility determination are quality of material, experience, efficiency, and reputation of the bidder, the character, integrity, credit, and conscientiousness of the bidder, the ability of the bidder to respond and answer in accordance with what is expected or demanded and to fulfill letter and spirit the contract made with him, the accessibility of the bidder, and any other factor that the commissioner determines to affect responsibility.

Sec. 3. The Commission may give a preference to an Indiana business that submits a bid under this article if all of the following apply:

- (1) An out-of-state business submits a bid.
- (2) The out-of-state business is a business from a state that gives public works preferences unfavorable to Indiana businesses.

The commission shall establish criteria for determining the following:

- (1) Whether a bidder qualifies as an Indiana business under the rules established by the Commission.
- (2) When another state's preference is unfavorable to Indiana businesses.
- (3) The method by which the preference for Indiana businesses is to be computed.

The commission may not give a preference to an Indiana business that is more favorable to the Indiana business than the other state's preference is to the other state's businesses.

Sec. 4. As used in this section, "resident of Indiana" means a person who is at least eighteen

(18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2.

However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

When entering a bid under this policy, each contractor shall provide the commission with information on the number of residents of Indiana who will be employed by the contractor and the number of residents of Indiana who will be employed by any subcontractor of the contractor.

The goal for a contract awarded by the commission for a public works project is to award the contract to a contractor who: (1) employs residents of Indiana as at least ninety percent (90%) of the employees who work on the contract; and (2) enters into subcontracts only with subcontractors who employ residents of Indiana as at least ninety percent (90%) of the employees who work on the subcontract

Sec. 5. The Contract shall be transmitted to the Contractor for his execution by a letter stating that the Contractor unless otherwise instructed in writing, should not commence any work or take delivery of noninventory materials until he receives a copy of the fully executed contract signed by all required signatories and all auxiliary documents including but not limited to insurance and bonds are completed and furnished to the Commission.

Sec. 6. For professional contractual services the Commission may, before expiration of existing contracts and with the consent of both parties, renew the contract annually not to exceed a total period of four years, except in those cases where no competition exists. Contract renewals shall be made at the same price or by reasonable escalations based on an independently published index specified in the contract documents and agreeable to both parties

Sec. 7. The prospective contractor shall supply information requested by the Commission concerning the responsibility of such contractor. If such contractor fails to supply the requested information, the state shall base the determination of responsibility upon any available information or may find the prospective contractor non-responsible if such failure is unreasonable

Rule 8. Inspection of Construction

Sec. 1. The Commission has the responsibility for the inspection of all construction that has been designed by the division. The Commission shall also make periodic reviews of all construction

that has been designed by contract designers; however, the designers by their contract are held responsible for the primary inspection. Periodic review by the Commission does not relieve the designer of the responsibility for the primary inspection, control, and coordination of the project. On projects designed by a contract designer, the inspectors or institutional employees shall not give instructions to any contractor or subcontractor directly, except in an emergency, instead bringing the facts to the attention of the contract designer for resolution. Any:

- (1) change in the methods or performing an item of work;
- (2) substitution of material;
- (3) revision to schedule;
- (4) extra work orders;
- (5) extension of completion time; or
- (6) interpretation of the plans and specifications;

shall originate with the designer and be approved by the Commission.

VIII. Approval of Partial Payments

25 IAC 2-9-1 Partial pay estimates; submission, review and approval procedure

Sec. 1. Contractor shall submit partial pay estimates as set out in the respective contract documents, but not more frequently than once a month. Such estimates shall be submitted to the designer for his review and approval. The designer must warrant that the work as described in the estimate has been accomplished and materials listed have been received and secured. The estimate shall then be transmitted to the Commission for approval and then submitted to the director and Commission for approval of payment.

Sec. 2. In order to be considered for inclusion in a partial payment request, materials must either be stored in a secure manner on the site or be separated and properly identified as being the property of the Commission and/or its contractor if remaining in an off-the-site warehouse not considered the place of business of the vendor.

Sec. 3. Partial payments may be temporarily held by the Commission if the Commission has received a certificate from a subcontractor asserting that his or her work, having been completed within the past sixty (60) days was billed to the prime contractor and not paid. Copies of the certified claim shall be forwarded to the contractor's bond surety, if applicable, for information and possible action. The partial pay request shall be released for payment upon satisfactory evidence that the subcontractor has been paid. If it is evident that a disagreement exists as to the billing in question, then the state shall:

- (1) reduce the partial billing by the amount claimed; and
- (2) pass the balance on for payment.

Copies of all correspondence pertaining to the alleged nonpayment to subcontractors in violation of the contract between the state and the prime contractor shall be placed in their

respective prequalification file for review by the Commission. Information relative to the alleged nonpayment of bills due involving a contractor, subcontractor, or materialman shall be released to persons pursuant to the Public Records Act, IC 5-14-3-1 et seq.

XI. Acceptance of Project and Final Payment

Sec. 1. Whenever the project has progressed to the point of substantial completion, a review shall be made by the designer accompanied by the following:

- (1) The contractor.
- (2) The director.
- (3) A representative of the Commission.

After all deficiencies have been substantially remedied, the designer shall recommend to the director that the construction project be accepted. After the director has accepted the project on behalf of the Commission, the final billing may be submitted, accompanied by affidavits and other documents evidencing that all subcontracts and bills for materials and services have been paid.

Sec. 2. Upon receipt of such final payment request and necessary affidavits, the billing will be passed for payment unless certificates of non-payment as submitted by subcontractors or materialmen have not yet been resolved. In that event, the amounts alleged to be owed shall be deducted from the contractor billings and the balance passed for payment as a partial payment.

Sec. 3. Billing for final payment shall not be passed for payment until 60 days after (1) all contractor and subcontractor work has been totally completed including all punch list items, (2) all equipment has been delivered to the site, and (3) all equipment to be installed by contractor, supplier or a subcontractor has been installed and accepted. Final payment can be released only if all punch list items are completed by the contractor.

X. Emergencies

Sec. 1. Prima facie evidence of an emergency exists whenever a substantial loss or service to the State, its local jurisdictions, or the Commission would result if immediate remedial action is not taken. In addition to IC 5-16-1-1.6 and 25 IAC 2-5-4, an emergency may include expiration of bids where loss of bids and rebidding would cause substantial loss either by additional cost or lost revenue.

Sec. 2. If Commission-owned property is under lease to others and is in a state of disrepair to an extent that a continuance in this state may cause a default in such contract, and time is not available to pursue the regular procedures for securing the necessary labor, materials and services to remedy the fault, then prima facie evidence of an emergency exists. If, in the opinion of the Commission's director that an emergency exists and a need exists for procuring materials, labor or services outside the normal procurement procedures, he or she shall inform the Commission and if the Commissioner concurs that an emergency exists, the materials, labor or services can be

secured on an emergency basis as set out in IC 5-16-1-1.6 and 25 IAC 2-5-4

Sec. 3. If property under the jurisdiction and control of the Commission is in a state of disrepair so as to be harmful to the safety of the structure or a hazard to life, then prima facie evidence of an emergency exists. In such instances, the procedure described in 25 IAC 2-11-2 shall apply. This procedure also applies to property leased by the Commission wherein the Commission has the responsibility for the maintenance and upkeep of the building or where terms of the lease dictate contract work procedures.

Sec. 4. The official who initiated the emergency request shall set out in writing all pertinent facts involved in the problem as soon as possible, but not longer than one week after the discovery of the emergency with copies for the director and the Commission. All confirming emergency requisitions shall include the name and agency of the person giving the emergency authorization.

XI. Out-of-State Corporations

A bid submitted by an out-of-state corporation must be accompanied by a copy of the certificate issued by the Indiana secretary of state admitting them to do business in Indiana. Thereafter, a copy of the certificate will not be required, but:

- (1) current status with the corporations' division of the secretary of state's office will be checked at the time of renewal; and
- (2) any foreign corporation not in good standing will not be issued a prequalification certificate even though approved by the Commission until good standing is verified.

XII. Application of Designers

Sec. 1. Designers must be prequalified. The designer may supply any new informational booklets or brochures relating to the capabilities of the applicant whenever the documents become available. However, the supplemental materials are not to be submitted in lieu of the prequalification application.

Sec. 2. Designers will be contracted only in those fields of engineering in which the applicant designer indicates that an Indiana registered professional (PE) is:

- (1) working at least thirty (30) hours a week as an employee of the applicant; and
- (2) shown as the engineer in charge of at least five (5) projects listed in the experience data portion of the application.

Sec. 3. For those professional areas that are not registered in Indiana, the applicant designer must show an employee with a minimum of thirty (30) hours each week in each field with sufficient training and adequate experience to satisfy needs of the Commission.

