HIGHWAY COMMISSION, STATE: Prospective bidder on contracts with Highway Commission must furnish financial statement prepared and attested as correct by a certified public accountant.

July 15, 1938.

Mr. M. R. Keefe,
Chief Engineer,
State House Annex,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of July 5, 1938, as follows:

"Because of a controversy which exists in one phase of the prequalification Act (Chapter 98 of the 1937 Acts) with reference to the clause 'statements shall be prepared and attested as correct by a certified public accountant,' we would appreciate an interpretation. The attached correspondence will indicate the difficulty which exists particularly with regard to the state of Illinois.

We have been interpreting this clause to mean that any accountant regardless of the location who could sign those statements as a certified public accountant to be in compliance with the law. It has since developed, as indicated by attached correspondence that the grade of public accountant represents in general a higher degree of accounting. May we, under the provisions of the Act, accept a statement so submitted?

We are told that 42 states, including Indiana, have reciprocal agreements with regard to the grade of certified public accountant. If the meaning of the present law with regard to this terminology is construed to mean that these states who do not have reciprocal agreements with Indiana are excluded, the problem will be particularly difficult in that those states bordering Indiana do not have the reciprocal agreement.

The points to be determined are:

1. May statements from accountants in those states be accepted which do not have reciprocal agreements with Indiana?

2. In those states where there is no reciprocal agreement may that superior grade of accountancy which
is so recognized by the individual state be accepted as complying with the requirements of the law.”

The question submitted by you calls for a construction of the provisions of chapter 98 of the Acts of the General Assembly of Indiana for the year 1937. Chapter 98, supra, is an act requiring the State Highway Commission of Indiana to adopt certain rules with reference to prospective bidders who propose to make bids for the construction of projects proposed to be constructed by the State Highway Commission of Indiana. These rules are designed to require proposed bidders to furnish certain information to the State Highway Commission so that the commission may better understand the ability of the proposed bidder to perform his contract in case a contract should be awarded him by the commission. And, the statute further provides, that persons desiring to become bidders for contracts with the State Highway Commission, must, in order to qualify comply with the rules so adopted by the State Highway Commission of Indiana.

Section 3 of chapter 98, supra, among other things provides, the prospective bidder must submit a financial statement and then provides, “The financial statement furnished by any applicant shall be prepared and attested as correct by a certified public accountant.”

In this enactment, the Legislature recognized the necessity of having those who propose to become bidders for the construction of projects in which the state is interested to submit a properly prepared and verified financial statement, by a class of accountants recognized as qualified to do such work by the laws of the state.

The State of Indiana has, by law, recognized a class of accountants as certified public accountants and has provided a board of examiners to examine applicants who desire to become such accountants and in accordance with the policy of the state, enacted the provision found in chapter 98, supra, that all such financial statements submitted to the State Highway Commission of Indiana by prospective bidders to be prepared and attested as correct by certified public accountants who are qualified as such under the law of the state.

This provision, it seems to me, is a further safeguard to the public and in view of the statutes of the State of Indiana, on the subject of certified accountants can work no hardships on anyone.
The statute creating the State Board of Certified Accountants providing its duties and fixing the qualifications, is found in Burns' R. S. 1933 in a series of sections beginning at Section 63-401 which creates the board.

It will be necessary for a clear understanding of the subject and to answer the questions propounded in your letter, to quote all the sections of this series of statutes but, will direct your attention to those sections that relate to the answer to your questions.

Section 63-404 Burns’ R. S. 1933, provides, that the State Board of Certified Accountants shall hold examinations for persons who desire to become certified public accountants, semi-annually at their offices in the city of Indianapolis.

The qualifications of applicants are fixed by the provisions of section 63-404 Burns’ R. S. 1933, as follows:

“"A citizen of the United States, or a person who has duly declared his intention to become such a citizen, who has been a continuous resident of the State of Indiana for a period of not less than one year prior to filing his application for a certificate, not less than twenty-one years of age, of good moral character, a graduate of a high school or having received an equivalent education, with at least three years experience in the practice of accounting, and who has received from the state board of certified accountants as herein provided a certificate of his qualification to practice as a public accountant, shall be styled and known as a certified public accountant. No other person shall assume such title or use the abbreviation ‘C. P. A.,’ or other words or letters to indicate that he is a certified public accountant, and no firm or partnership shall assume or use such title or use the abbreviation ‘C. P. A.,’ unless every member thereof is the holder of an unrevoked certificate as a certified public accountant.”

Section 63-405 Burns’ R. S. 1933, provides, that this state may cooperate with other states in regard to certified public accountants which provision is as follows:

“In order to cooperate with other states and hold its examinations at the same time and on the same dates upon which such other states hold semiannual examinations for persons desiring to become certified public accountants, the state board of certified accountants
shall have the authority to adopt questions prepared for such uniform examinations by a general accredited official national organization of professional accountants, incorporated under the laws of any state or the District of Columbia, with which twenty or more states are affiliated and cooperating in holding their 'C. P. A.' examinations. The state board of certified accountants shall have the authority to pay from the fees provided by this act the expense of employing examiners of such national organization to grade the manuscripts of candidates at such examinations: Provided, however, that members of the board shall conduct such examinations as herein provided."

Section 63-406 Burns' R. S. 1933, provides for the issuance under certain circumstances of certificates to persons of other states without examinations, to become certified public accountants. The language of the statute is as follows:

"A person who is a citizen of the United States, or has declared his intention of becoming such citizen, who is at least twenty-one years of age, of good moral character, who has complied with the rules and regulations of the state board of certified accountants and who holds a valid and unrevoked certificate as a certified public accountant, issued under the authority of another state or territory of the United States or the District of Columbia, or who holds a valid and unrevoked certificate as a member of a generally accredited official national organization of professional public accountants, incorporated under the laws of any state or the District of Columbia, with whom twenty or more states are affiliated in holding C. P. A. examinations, may receive from the state board of certified accountants of Indiana, without examination by said board, a certificate as a certified public accountant, if the board is satisfied that the standards and requirements for a certificate as a public accountant thereof are substantially equivalent to those established by this Act. Such person may thereafter practice in the State of Indiana as a certified public accountant and assume and use the name, title and style of 'certified public accountant,' or any abbreviation or abbreviations thereof."

I am of the opinion therefore, that the provisions requiring the financial statement to be "prepared and attested as correct by a certified public accountant," is a reasonable and valid enactment of the Legislature, and should be required by the State Highway Commission of Indiana, of each bidder. Each of the two questions submitted are therefore answered in the negative.

TAX COMMISSION, STATE BOARD OF: Whether a county may issue bonds payable by a tax levy for road building purposes.

July 18, 1938.

Hon. C. R. Benjamin,
Member, State Board of Tax Commissioners,
231 State House,
Indianapolis, Indiana.

Dear Mr. Benjamin:

This will acknowledge receipt of your letter of July 11, in which you submit the following question:

"May a county issue bonds payable from property tax income for the purpose of purchasing right-of-way for feeder roads?"

The question of improvement of secondary or feeder roads is discussed in section 20, chapter 256 of the Acts of the Indiana General Assembly of 1987. This section authorizes the State Highway Commission to enter into agreements for the construction or maintenance of secondary or feeder roads with the various municipalities and board of county commissioners through which the same passes. The Act then provides that:

"Said boards of commissioners and said municipalities are hereby authorized by grant, donation, purchase or condemnation to procure the necessary right-of-way for such improvement and to pay for the same out of the funds of such county or municipality."

The question, therefore, arises as to the source from which the funds of such county can be obtained for such expenditure. The matter of acquiring right-of-way for feeder roads is a part of the program of construction of such roads.