

May 1, 2024

To: Vermont House Education Committee

From:

Chelsea Myers, Associate Executive Director of the Vermont Superintendents Association
Morgan Daybell, President of the Vermont School Business Officials; Business Manager at Franklin Northeast Supervisory Union
Bruce MacIntire, President of the Vermont School Custodial & Maintenance Association; Director of Facilities at Addison Central School District

Re: Public Construction Bids

Thank you for considering testimony from the Vermont Superintendents Association, Vermont School Business Officials, and Vermont School Custodial and Maintenance Association related to public construction bids in Vermont. We support the changes as passed by the Senate but have further recommendations for consideration by the Committee. The testimony today seeks to provide feedback that strikes a balance between (1) flexibility for school districts at a time when construction needs are high and limited contractors are available to fulfill those needs and (2) responsibility to school communities and taxpayers.

Prequalification and Bid Selection

- **Legislative Recommendation:** Remove 16 V.S.A. § 559 (b) and accordingly 16 V.S.A. § 559 (c)(2)
 - We are operating in an environment that is favorable for contractors. Contractors may be deterred from jobs requiring pre-qualifications due to the time and labor associated with the process.
 - Complex and time-intensive pre-qualification processes deter some smaller contractors from applying.
 - Tailoring prequalification requirements could theoretically result in unlawful exclusion of potential bidders.
 - More flexibility in the contract selection process (rather than prequalification) could ameliorate these prequalification concerns and allow for the necessary discretion to evaluate quality, ability to carry out the work, and responsibility to taxpayers.

- **Legislative Recommendation:** Consider clarifying this rule provision in statute, which has invited confusion from the field.
 - Rule Series 6400, the State Board Rule Series for Construction Management states, "Opening and evaluation of all bids for construction management, shall be conducted at a warned school board meeting." An expert from the school district or who is consulting with the school district should be permitted to evaluate the

bids prior to the warned board meeting. The Rule Series should not be interpreted as the need for bid opening to occur at a warned board meeting.