

# **School Construction Working Group Suspended Construction Program Overview**

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**AGENCY OF EDUCATION, August 14, 2023**



# Overview

## -Vermont Construction Aid Program review

- Active Program – Emergency Aid
- Suspended Programs
- System used for Rating Construction Aid

## -SBE Rules

- 6000 Series – School Buildings & Sites
- 6300 Series – General Rules for Prequalification for Bidders
- 6400 Series – Construction Management

# Vermont School Construction Aid Program

- State School Construction Aid program was comprised of two programs managed by the AOE
- Team comprised of two members; Program Manager & Assistant Manager
- Key state partners included: DPS, DEC, DPH, PSD, AOT, DHP, AGR, BGS, VBB
- State Construction Aid suspended in 2008
  - Total nominal dollars awarded to school districts through state aid  
FY 2000 – FY 2008: \$ 91,686,892 (data courtesy of VBB)
  - Total LEA nominal Bonded Dollars for school construction projects  
FY 2000 –FY 2008: \$191,775,000 (data courtesy of VBB)
- Emergency Construction Aid still active in 2023

# Active Program: Emergency Construction Aid

- Aid = 30% of eligible project costs up to \$100K
- Resulting in a max of \$30K per emergency project
- Eligible project costs determined after insurance, etc.
- \$50K per year appropriated
- Must be both unanticipated and result in a safety or health situation for building occupants
- Typically, exempt from public bid law
- Does not need to receive approval prior to construction

# Suspended Program: State Construction Aid Programs

**Type II Infrastructure:** projects that extend the useful life of a building but do not increase the building's size or capacity. Examples: replacement, addition or repair to utilities, projects which address environmental quality issues, replacement of a roof, or replacement or upgrading of mechanical equipment.

Aid = 30% of eligible costs

- No statutory \$ limit to costs if otherwise eligible
- Required both a Preliminary Application and a Type II application
- Triggered SBE rules – see SBE Rule Series 6000
- Required AOE approval prior to beginning construction
- Released 1/2 estimated costs at approval (as available)
- Required commissioning (as applicable) and a full project audit and financial audit
- Released balance after financial audit completed (as available)

# Suspended Program: State Construction Aid Programs (cont)

## Major Construction (Type I, Add/Ren, Major Renovations):

Additional square footage and/or capacity

- Must meet the same requirements for **Type II Infrastructure** projects
- Must meet the test for new square footage as specified in statute
- Ed Specs, facility analysis, enrollment projections, etc.
- Funding subject to a prioritization score that required onsite visit
- Interagency review
- 30% reimbursement of actual eligible costs up to the Maximum Cost for State Participation (MCSP).

# Suspended Program: State Construction Aid Programs (cont)

## **Consolidation Construction Aid:**

- Same requirements as Major Construction
- 50% construction aid

## **Biomass Projects:**

- Similar to the Type II with addition that the project had to result in efficiencies and a life cycle cost analysis
- 90% aid, later reduced to 75% aid

## **Performance Contracts:**

- Result in energy efficiency
- 20% aid

## **Continuing Technical Education Centers**

- Eligible for up to 100% funding – managed through State Department of Buildings and General Services (BGS)



## SUMMARY OF PRIORITY RATING SCORES

	<u>Maximum Points</u>
Community Use	2
Consolidation/Union District Formation	10
Health and Safety	24
Building Condition	32
Type of Space	12
Number of Years Exceeding Capacity	5 (1 point per year)
Mid Range Projection	3
Enrollment Projections	40
Years in Process	5 (for each year project is unfunded)
Identified Schools	10

# **System for Rating School Construction - Scoring Explanation**

The following definitions and points will be applied when evaluating the different components of the priority system for ranking projects.

## **Community Use:**

Approved educational specifications that include space for a community program that supports the school's educational program will receive 2 additional points.

## **Consolidation of Buildings or Union District Formations:**

Proposals for the consolidation of one or more buildings, or like programs and services, which demonstrate cost effectiveness will receive 10 additional points.

## **Health and Safety:**

Evidence of non-compliance with state and federal fire, health and safety regulations, including regulations of all state agencies with rules for construction and operation of public schools. 24 possible points.

## **Building Condition:**

Evidence provided through professional evaluations of the condition of the existing building(s). 32 possible points.

# **System for Rating School Construction - Scoring Explanation**

## **Type of Space:**

Evidence that utilization of current classroom space does not meet current enrollment or future enrollment projections. For the purpose of determining the capacity of an existing building that has not had any major construction within five years, the Vermont Department of Education will take the total classroom space square footage and divide by 30 square feet. Calculations for classroom space for 7-12 or 6-8 enrollments will be at 70% and 80%, respectively, of use.

Core facilities components include: library, cafeteria, auditorium, gymnasium, multipurpose room, science labs, art and music rooms, planning rooms, storage areas, health services, guidance and administration areas. Evaluations of these areas will be based on their availability to meet the needs of the defined curriculum and services

## **Enrollment Projections:**

When applicable, schools must submit an enrollment history and projections for a minimum of five years and a maximum of ten years using a cohort survival method.

Evaluations are based on the district's percentage of unhoused students based on the approved enrollment projections.

# **System for Rating School Construction - Scoring Explanation**

If the enrollment projection for unhoused students is equal to or greater than 40 percent of existing capacity, **full points are awarded.** (max 40 points)

If the enrollment projection for unhoused students is less than 5 percent of existing capacity, **then 0 points are awarded.**

If the enrollment projection for unhoused students is between 5 and 40 percent of existing capacity, **then points are awarded equal to the percent of unhoused students.**

## **Mid- Range Projection:**

The degree of immediacy of a district's capacity problem. Three points will be added to the district's base calculation once it has reached its mid-range projection.

## **Number of Years Exceeding Projection:**

The duration of an unhoused students problem. One point will be added to the calculation for each year the school's student population exceeds its capacity.

# **System for Rating School Construction - Scoring Explanation**

## **Years in Process:**

For each year a project with an approved preliminary application and an established need is unfunded, the Department of Education will add five additional points to its rating. The process is as follows:

<b><u>Year</u></b>	<b><u>Points</u></b>
1	0
2	5
3	10
4	15
5	20

## **Identified Schools:**

Projects for schools currently identified as in need of technical assistance (either by student performance or noncompliance with the School Quality Standards as adopted by the State Board of Education) will receive ten additional points.

**SBE Rules Related  
to  
School Construction**

# SBE Rules

## [Series 6000 - School Buildings and Sites](#)

- Statutory Authority 16 V.S.A. Chapter 123

## [Series 6300 - General Rules for Prequalification of Bidders on Contracts over \\$500,000](#)

- Statutory Authority 16 V.S.A. 559(b)

## [Series 6400 - Construction Management](#)

- Statutory Authority 16 V.S.A. § 559(d)

# 6000 Series – School Buildings & Sites

6111- Policy & Purpose

6112- Definitions

6113- School Building Information

6114- Requirements Applicable To All Projects

6115- Application Procedures for Construction Aid

6116- Preliminary Application

6117- Facility Analysis

6118- Determining a Priority of Projects

6119- Rating Eligible Projects

6120- Preliminary Design Work and Cost Estimates

6121- Educational Specifications

6122- Enrollment Projections

6123- Construction Design

6124- Maximum Cost for State Participation

6125- Assigning a Priority to Projects

6126- Approval of Final Application

6127- Final Application (components of a final application)

6128- Commencing Construction



# 6000 Series – School Buildings & Sites

- 6129- Emergency Aid Approval
- 6130- During Construction
- 6131- Indoor Air Quality
- 6132- Completion of Construction (Project Turnover)
- 6133- Awarding of Construction Aid
- 6134- Costs Eligible for Construction Aid
- 6135- Partially Eligible Costs
- 6136- Non-eligible Costs
- 6137- Questionable Costs of Spaces
- 6138/6139- Minimum Requirements & Specific Program Space Needs
- 6140- Lighting
- 6141- Toilets, Sinks and Drinking Fountains
- 6142- Energy Efficient Standard
- 6143- Ventilation
- 6144- Wall/Ceiling/Floor Finishes
- 6145- Energy Retrofit Projects
- 6200- Variances

# 6300 Series – Prequalification of Bidders

**6310- Statutory Authority 16 V.S.A. 559(b)**

**6320- Policy And Procedure**

To ensure that school construction projects are bid through a fair and open process and bids are received from responsible and qualified contractors.

**6330- Cross References State Board Rules:** 6000 Series - School Construction and 9000 Series Public Bids

**6340- Pre-qualification Procedures**

A school board shall determine which contractors are eligible to bid on school construction contracts in excess of \$ 500,000. For the purpose of these rules an award to a general contractor shall constitute one contract.

The prequalification procedures are as follows:

1. The board shall establish prequalification criteria for the contract in question.
2. The board shall publicly advertise at least 60 days prior to proposed bid opening that it has established prequalification criteria a bidder must meet and that it is seeking interested bidders to apply for prequalification.

# 6300 Series – Prequalification of Bidders

3. The advertisement shall include:

- (a) A brief description of the project for which the contract will be bid
- (b) When bids are anticipated to be opened.
- (c) When and where prequalification statements are to be received.
- (d) Notice that prequalification statements are to be submitted on the AIA - A305 1986 forms or most recently amended form AIA- A305, with attachments thereto, if necessary, to respond to additional pre-qualification criteria established by the board.

**6341 Determination Of Pre-qualification-** The school board shall review each applicant's ability to perform the work required and shall prequalify an applicant if the board finds that the applicant:

- (a) maintains a clear and stable organizational structure;
- (b) holds licenses and/or registrations appropriate to the work to be performed;
- (c) has sufficient experience or expertise with related projects;
- (d) has sufficient financial capacity;
- (e) does not maintain a current construction load that would interfere with its ability to perform the work;
- (f) has positive references from credible and knowledgeable sources; and
- (g) meets any other lawful criteria established by the school board specific to the qualifications of the contractor to perform the work required in a timely and adequate manner.

# 6300 Series – Prequalification of Bidders

## 6342 Notice To Applicants

- 6342.1** After determining which applicants are prequalified, the school board shall notify all applicants of whether they are eligible to bid on the contract. The notice shall be in writing and shall be issued at least 30 days prior to the proposed bid opening.
- 6342.2** The notice sent to applicants determined to be eligible to bid on the contract shall also contain information on the availability of plans and specifications and when and how bids are to be submitted.

# 6400 Series – Construction Management

6410 Statutory Authority 16 V.S.A. § 559(d)

## 6420 Policy And Purpose

To ensure that school construction projects using a construction management approach are bid through a fair and open process.

## 6430 Definitions

"Construction manager" means a person or entity providing some or all of the following services for a fee to a school board throughout a school construction process:

- (a) general advice;
- (b) value engineering;
- (c) project scheduling;
- (d) cost estimating;
- (e) project management; and
- (f) document preparation, including bids and contracts.

"Construction management" means the services provided by a construction manager.

## 6440 Bidding For Construction Management Contracts

Contracts for construction management, except as provided in rule 6441, are not subject to the terms of 16 V.S.A. § 559. However, nothing herein shall be construed to prohibit a school board from placing a contract for construction management out to bid.

# **6400 Series – Construction Management**

## **6441 Construction Management/Constructor**

When the school board wishes to offer a contract for construction management where the construction manager also serves as the constructor, a school board shall comply with the pre-qualification and bidding procedures contained in 16 V.S.A. § 559.

A "constructor" means a person or entity which assumes a contractual obligation in exchange for a guaranteed price for the labor and materials for a school construction project.

## **6450 Pre-qualification Procedures**

Construction management contracts subject to Rule 6441 above, shall meet the pre-qualification requirements of Rules 6340.

## **6460 Request For Construction Management Proposals**

Upon completion of the prequalification process pursuant to Rule 6340, the school board shall submit to the prequalified construction managers a request for proposals that requests the following information:

1. a list and description of services to be provided;
2. resumes of key personnel;
3. a fixed fee for construction management services with a list and detailed breakdown of each item;
4. a fixed fee for construction services to cover overhead and profit; and
5. a fixed fee for general conditions with a list and detailed description of each item

Nothing herein shall prohibit a school board from requesting proposals that include a percentage fee.

# **6400 Series – Construction Management**

## **6470 Bid Process For Construction Manager**

The school board shall adhere to the requirements of 16 V.S.A. § 559 when awarding a contract pursuant to Rule 6441 to a construction manager.

## **6471 Bid Openings**

Opening and evaluation of all bids for construction management, shall be conducted at a warned school board meeting.

## **6480 Bid Process Under Construction Management**

Where a school board has contracted with a construction manager, the board remains responsible for public bidding pursuant to 16 V.S.A., § 559 for all purchases or contracts