



PROCUREMENT JUSTIFICATION FORM (PJF)

This form must accompany all contract requests and sole source requisitions (RQS) over \$5,000 submitted to the Division of Procurement Services.

INSTRUCTIONS: Please provide the requested information in the white spaces below. All responses (except signatures) must be typed; no hand-written forms will be accepted. See the guidance document posted with this form on the Division of Procurement Services intranet site (Forms page) for additional instructions.

PART I: OVERVIEW
Table with fields: Department Office/Division/Program, Department Contract Administrator or Grant Coordinator, (If applicable) Department Reference #, Amount, Advantage CT / RQS #, Proposed Start Date, Proposed End Date, Original Start Date, Effective Date, Previous End Date, New End Date, Project Start Date, Grant Start Date, Project End Date, Grant End Date, Vendor/Provider/Grantee Name, City, State, Brief Description of Goods/Services/Grant.

PART II: JUSTIFICATION FOR VENDOR SELECTION
Check the box below for the justification(s) that applies to this request. (Check all that apply.)
Table with checkboxes for: A. Competitive Process, B. Amendment, C. Single Source/Unique Vendor, D. Proprietary/Copyright/Patents, E. Emergency, F. University Cooperative Project, G. Grant, H. State Statute/Agency Directed, I. Federal Agency Directed, J. Willing and Qualified, K. Client Choice, L. Other Authorization.

Please respond to ALL of the questions in the following sections.

### PART III: SUPPLEMENTAL INFORMATION

1. Provide a more detailed description and explain the need for the goods, services or grant to supplement the response in Part I.

Excessive repairs are needed due to a 50-60 years storm event which occurred in Dec. 2023. Prior to this year, all fishway repairs were done by Duvaltex maintenance Dept. The repairs needed were identified on 4/29/24 and over the next week, it became clear the necessary repairs would not and could not be done by Duvaltex due to “restructuring” and “closing of the building”. On May 3<sup>rd</sup> TNC and DMR personnel quickly gathered info from other dam and fishway operators to identify an alternate contractor. Sullivan and Merritt Constructors, Inc. were described as having done many fishway repairs in the past as well as complying with OSHA regulations for confined space work. Fortuitously, a Sullivan and Merritt crew were on site at the next fishway downstream. The annual date in which this fishway is to be open for Atlantic salmon passage is “May 15”. At the time the work will be completed we have approximately 5-7 days before this fishway needs to be open. Funding sources have been checked and arrangements have been made to have Sullivan and Merritt Inc. look at the job. Sullivan and Merritt Inc. are able to be on the job site May 6 to start repairs. This action is a furtherance of protections for endangered Atlantic salmon under the Endangered Species Act as DMR stocked approximately 100k Atlantic Salmon smolts above this dam in 2022, that are due to return in 2024.

2. Provide a brief justification for the selected vendor to supplement the response in Part II. Reference the RFP number, if applicable.

The opening of the Guilford (Duvaltex) fishway and/or fishways in general are in Maine State Statute: §12760. Fishways in dams and other artificial obstructions

Sullivan and Merritt Inc. was chosen for their experience, qualifications and availability on very short notice. The needed repairs were of an emergency nature and Sullivan and Merritt’s crew was already working in the area. Sullivan and Merritt came highly recommended by other fishway operators.

3. Explain how the negotiated costs or rates are fair and reasonable; or how the funding was allocated to grantee.

Costs of labor and materials are the going rate for this level of work. The emergency nature of the work eliminates options for negotiating costs or rates as this was the only available contractor. This contractor has safety and OSHA qualifications for working within closed spaces and around water hazards.

4. Describe the plan for future competition for the goods or services.

There may be the need for annual maintenance. Now that DMR knows there is a need for a contractor at Guilford Dam to service the fishway, DMR will go through a contracting process to have a maintenance company on retainer. This company (S&M) has served other fishway owners well, in preparing for annual fishway opening needs. With a contract in place any future needs should be planned for beginning 90 days prior to fishway opening. Future emergency needs will be

**PART III: SUPPLEMENTAL INFORMATION**

addressed within a 30 day window prior to fishway opening. The nature of the event that caused the needed repairs, a 50-60 year flood event, makes it untenable to carry a contract specially for this type of significant emergency repair. Both State and Federal statues require fishways designated by the commissioners to be operated by the owners or their designee.

Federal Statue Endangered Atlantic Salmon

Maine statue §12760. Fishways in dams and other artificial obstructions

**PART IV: AMERICAN RESCUE PLAN ACT (ARPA) / MAINE JOBS & RECOVERY PLAN (MJRP)**

Does this request utilize ARPA/MJRP funds?

Yes, MJRP funds (023) – If Yes, please attach the approved Business Case(s).

Yes, ARPA funds (025) – If Yes, please be aware of the requirements from awarding federal agencies.

No – If No, proceed to Part V.

**PART V: APPROVALS**

The signatures below indicate approval of this procurement request.

Signature of requesting Department's Commissioner (or designee):	<i>Meredith Mendelson</i> Meredith Mendelson (Jun 12, 2024 11:48 EDT)		
Typed Name:	Meredith Mendelson, Deputy Commissioner	Date:	6/12/24
Signature of DAFS Procurement Official:	DocuSigned by: <i>William J.E. Allen</i> 2D5B6E39F57E44A...		
Typed Name:	william J.E. Allen	Date:	6/14/2024

OI 0620240699 06/17/2024 - 06/23/2024

# PJF- RQS 13A 20240612-1783

Final Audit Report

2024-06-12

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