



New York City Department of Environmental Protection  
TRP-2013  
Negotiated Acquisition: Large Volume Vendors of Residential Toilet Fixtures in New York City  
PIN: 8262012TRP001

## **SECTION I – GENERAL INFORMATION**

This negotiated acquisition solicitation (Solicitation) outlines the terms by which Applicants may apply to participate in Phase I of the Toilet Replacement Program (TRP) in partnership with the New York City Department of Environmental Protection (DEP). DEP plans to launch a voucher-based fixture replacement program that incentivizes owners of residential buildings to replace older toilets with flow rates greater than or equal to 3.5 gallons per flush (gpf) or above with high-efficiency models that have flow rates of 1.28 gpf or less. The selected Applicants (Vendors) will sell high-efficiency toilets at DEP-subsidized prices to Customers and temporarily store Customers' discarded toilets. Such sales and storage will occur at the Vendor's various retail locations in New York City (the City). Vendor selection criteria and requirements for Phase I of the TRP, application guidelines, and submittal information are described in detail in the following pages. Answers to frequently asked questions about the TRP may be found by visiting the website listed below:

[http://www.nyc.gov/html/dep/html/ways\\_to\\_save\\_water/toilet\\_replacement\\_program\\_faq.shtml](http://www.nyc.gov/html/dep/html/ways_to_save_water/toilet_replacement_program_faq.shtml)

DEP is seeking applications from potential vendors for participation in the TRP, whose large-volume retail facilities can be operational for the duration of the TRP. Applications for the program are due no later than 5/10/2013 at 4:00pm. It is anticipated that the contracts resulting from this solicitation will be two (2) years in duration, with a renewal option, exercisable at DEP's discretion, to extend any contract through Phase II of the TRP.

The presently anticipated average **annual** funding level for this program is ten million dollars (\$10,000,000.00).

**A Pre-Submission Meeting will be held on Thursday April 25<sup>th</sup> at 10:00am in the 11<sup>th</sup> Floor Conference Room at 59-17 Junction Boulevard. Attendance is not mandatory, but recommended.**

**Applications must be received no later than Friday May 10<sup>th</sup>, 2013 at 4:00pm.**

The Authorized Agency Contact Person for this solicitation is:

Glorivee Roman, Contracting Officer  
59-17 Junction Blvd., Floor 17  
Flushing, New York 11373



## **A. Background**

Since the 1990s, DEP has been monitoring leaks in a portion of the Delaware Aqueduct Rondout West Branch Tunnel (RWBT) that connects the Rondout Reservoir in Ulster County to the West Branch Reservoir in Putnam County specifically in the towns of Roseton and Wawarsing. The leaks release between 15 and 35 million gallons of water a day, depending on the amount of water the aqueduct is carrying. Years of comprehensive inspections, testing, and study indicate that cracking and leakage are occurring in these sections of the tunnel.

As a part of Water for the Future Program, DEP will build a three-mile bypass tunnel around a portion of the aqueduct that is leaking in Roseton in Orange County, and repair other leaks in Wawarsing, in Ulster County, from the inside of the existing tunnel. The three-mile bypass tunnel will run east from the Town of Newburgh in Orange County, under the Hudson River to the Town of Wappinger in Dutchess County, on the eastern side of the Hudson. Construction of the bypass tunnel is currently expected to be completed by the year 2021, at which point the leaking portion of the Delaware Aqueduct will be shut-down and decommissioned and the bypass tunnel will be connected to the system to convey water past the leaking portion of the RBWT. Shutting down the Delaware Aqueduct and connecting the bypass tunnel will temporarily eliminate approximately 50% of the water supply to the in-City distribution system. During this time, remaining water supplies will need to be optimized, augmented, and conserved.

To prepare for the shut-down of the aqueduct, DEP is currently developing a large-scale water conservation program with a target goal of reducing City-wide water consumption by 5% by the by the year 2021. DEP plans to launch a voucher-based fixture replacement program that incentivizes owners of residential buildings to replace older toilets with flow rates greater than or equal to 3.5 gpf or above with high-efficiency models that have flow rates of 1.28 gpf or less. The TRP is expected to generate a 3% reduction in City-wide water demand over the next seven years. The goal of the TRP is to achieve substantial water savings at a low cost by helping private sector residential buildings reach –at a minimum- a 70% installation rate for high-efficiency toilets. DEP will target two (2) separate customer populations over the TRP’s two (2) phases. In Phase I, for a period of two years, beginning in 2013, the TRP will target four-plus unit apartment buildings working to meet the conservation requirements established by the Multifamily Conservation Program (MCP). The second phase will begin in 2015 with the incorporation of non-MCP buildings into the eligible customer pool. This Solicitation will only involve Phase I efforts, unless a contact renewal option, described below, is executed.

WaterSense-labeled high-efficiency toilets (HET) are the only type of toilets that will be eligible for purchase under the TRP, with the exception of certain residential flushometer toilets. Eligible residential flushometer toilets with matched valve and bowl that are rated 1.28 gpf by the appropriate national standards and Maximum Performance (MaP) tested with a score of at least 350 grams will be considered eligible. WaterSense certified HETs have been defined by the plumbing industry and the Environmental Protection Agency (EPA) as those that use an average of 20% less water per flush than the industry standard of 1.6 gpf, in addition to requirements for minimum flush performance and adjustability. DEP is designing an online portal that will serve as an easy and convenient way for property owners and Vendors to interface with DEP regarding toilet voucher issuance and compensation. The web portal will also provide a list of approved high-efficiency toilet models that meet the design specification requirements of the voucher-based program.

## **B. General Voucher Process**

It is anticipated that the process for issuance and compensation of vouchers and distribution of HETs will be as follows:

1. Customers interested in replacing their current toilet with an HET will complete a voucher application using DEP's web portal. In order to complete an application, each Customer will need to enter their DEP account number, the name or identification number of the model of HET they wish to purchase and the Vendor's location at which they wish to collect the HET. The web portal will check if the Customer participated in DEP's past toilet rebate program (1994-1997).
2. Each Customer will have the ability to make the purchases of desired HETs at a Vendor's location by either using the voucher personally, or through an installation contractor. Each Voucher will amount to one hundred and twenty five dollars (\$125) per toilet.
3. The Vendors will utilize DEP's web portal to report the voucher as having been submitted. This web portal reporting system will confirm the authenticity of the voucher, protect the Vendors' payments and notify DEP.
4. Subsequent to purchase, each Customer may return old toilets for disposal to the roll-off container located at the Vendor's location. DEP will be responsible for coordinating the beneficial reuse of collected disposed toilets. The Vendors will be responsible for notifying a disposal contractor employed by DEP when the containers are full.
5. All of the vouchers associated with the Vendors will be tracked electronically. On a monthly basis each Vendor will deliver to DEP the original voucher documents for each purchased toilet under the TRP in the previous month. Upon submission of these documents, an electronic payment will be made to that Vendor.

### C. **TRP Phase I Procurement**

In order to accommodate anticipated consumer demand for new high-efficiency toilets within the five (5) boroughs of the City, DEP, through this Solicitation, is seeking qualified Applicants with large volume inventory capability for specified models of HETs as described above. DEP anticipates funding the sale of approximately ten thousand (10,000) toilets annually from approximately five (5) Vendors. The Vendors will be expected to provide sufficient inventory volumes of toilet models approved for the TRP. DEP will assess this qualification based on Applicant-submitted proof of past sales and proof of current inventory and supply capacity. Each Vendor TRP may be instructed by DEP to adjust supply capacity if it is determined that current inventory levels and supply capacity for selected HET will not adequately meet the corresponding demand. In addition, qualified Vendors shall:

- have previous experience doing business related to sale and distribution of toilet fixtures;
- be able to demonstrate positive performance (a positive track record) with bulk fixture supply and distribution contracts or contractual arrangements of a similar nature;
- have extensive experience providing products and services to a variety of customer groups in New York City;
- demonstrate that they have existing business relationships with toilet manufacturers and established product supply channels and provide a letter of support from at least three manufacturers on company letterhead as verification; and
- Submit all documentation with their application as required by Section III of this Solicitation.

As a result of the activities involved in Phase I of the TRP, large quantities of discarded toilets will need proper disposal and thus large volumes of construction & demolition waste (C&D) will be generated. The selected Applicants will be expected to provide at least one parking space at each involved retail location to accommodate a 20 cubic yard on-site roll-off container/dumpster to collect discarded toilets.

In order to manage this anticipated waste stream, DEP is planning to engage a separate contractor, selected through a separate procurement process. The other contractor will be responsible for removing discarded toilets and replacing roll-off containers at designated fixture drop-off locations (including the Vendors'

locations) where discarded toilet fixtures could be collected. Vendors selected through this Solicitation will not be responsible for obtaining the roll-off container, transporting, handling or processing discarded toilets.

## **SECTION II – SCOPE AND OTHER IMPORTANT INFORMATION FOR APPLICANTS**

### **A. SCOPE OF SERVICES**

Contracts with the selected applicants will require, among other things, that the Vendors:

- 1) operate a retail facility or facilities located in the City for a minimum of 3 years (or 5 years if the contract is extended);
- 2) make available for purchase adequate volumes of approved HET for the duration of the TRP;
- 3) maintain business operations within the City for a minimum of three years after the notice proceed is issued for the contract for this Solicitation;
- 4) meet the following minimum vendor capability requirements: providing sufficient inventory storage space for specified fixture models; possessing appropriate staffing levels to address aspects of business operations including product acquisition, management, distribution and sales; and furnishing the minimum required amount of on-site space to accommodate roll-off container/dumpster for return of replaced toilets for pick-up by DEP's processing contractor; and
- 5) manage the TRP online portal for fixture voucher issuance and redemption.

### **B. OTHER RELEVANT INFORMATION FOR APPLICANTS**

#### **1) COMPLIANCE WITH LOCAL LAW 34**

- 6) Pursuant to Local Law 34 of 2007, amending the City's Campaign Finance Law, the City is required to establish a computerized database containing the names of any "person" that has "business dealings with the city" as such terms are defined in the Local Law. In order for the City to obtain necessary information to establish the required database, Applicants responding to this solicitation are required to complete the attached Doing Business Data Form (Attachment B) and return it with this Proposal submission and should do so in a separate envelope. If the responding Applicant is a proposed joint venture, the entities that comprise the proposed joint venture must each complete a Data Form. If the City determines that a Applicant has failed to submit a Data Form or has submitted a Data Form that is not complete, the Applicant will be notified by DEP and will be given four (4) calendar days from receipt of notification to cure the specified deficiencies and return a complete Data Form to DEP. Failure to do so will result in a determination that the Proposal submission is non-responsive. Receipt of notification is defined as the day notice is e-mailed or faxed (if the Applicant has provided an e-mail address or fax number), or no later than five (5) days from the date of mailing or upon delivery, if delivered.

### **SECTION III - Format and Content of Applications**

Applicants should provide all information requested below. Applications should be typed on both sides of 8 ½" X 11" paper. The City of New York requests that all applications be submitted on paper with no less than 30% post-consumer material content ( i.e., the minimum recovered fiber content level for reprographic papers recommended by the United States Environmental Protection Agency (for any changes to that standard please consult: <http://www.epa.gov/cpg/products/printing.htm>)). Pages should be paginated. The application will be evaluated on the basis of its content, not length. Failure to comply with any of these instructions will **not** necessarily render the application non-responsive. Sections must be clearly marked. **Applications must be received no later than Friday May 10<sup>th</sup> at 4:00pm.**

The Application should be submitted to the Authorized Agency Contact Person noted in Section I, above, and it should contain the following:

- A. an Application Cover Letter (Attachment A);
- B. a Narrative (See Attachment E for more details);
- C. a copy of the Applicant's most recent financial audit report;
- D. a list of three (3) professional references or letters of support: for each reference, provide the name and address of the reference entity, nature of relationship with the reference, as well as the name, title, phone number, and email address of the contact person. DEP may contact all references;
- E. In a *separate sealed envelope* labeled with the contents, a completed Doing Business Data Form (See Attachments B and C); and
- F. A Completed Iran Divestment Act Certificate (See Attachment D).

### **SECTION IV – Application Evaluation and Contract Award Procedures**

All applications received in the manner set forth in Section III above will be reviewed to determine if they are responsive to the requirements of the solicitation. Applications determined to be incomplete will not be further considered. Proposals determined to be complete and qualified will be evaluated with respect to the following factors:

- Experience and capabilities of each vendor (including business reputation and sale capacity) and appropriateness of the proposed "Business Plan";
- Demonstrated site control of participating facilities;
- Demonstrated quantity and quality of successful relevant experience; and
- Demonstrated personnel and IT infrastructure.

Instructions located in Attachment E of this Solicitation contain more information regarding Applicant's submission of information relevant to these factors.

DEP will enter into negotiations with all technically qualified vendors, based on consideration of the above-cited factors. A contract will be awarded to the responsible Vendor(s) who are determined to be the most advantageous to the City.

Contract award is subject to each of the following applicable conditions and any others that may apply: submission by the applicant of the requisite New York City Department of Business Services/Division of Labor Services Employment Report and certification by that office; submission by the applicant of the requisite VENDEX Questionnaires/Affidavits of No Change and review of the information contained therein by the New York City Department of Investigation; submission by the applicant of a statement describing substantiated cases of client abuse/neglect within the past 12 months; submission by the applicant of a requisite certificate of insurance; and proof of compliance with New York State Charities Bureau filing requirements (for non-profit vendors).

## **SECTION V - Miscellaneous Information**

- A. Complaints.** The New York City Comptroller is charged with the audit of contracts in New York City. Any respondent who believes that there has been unfairness, favoritism or impropriety in this procurement should inform the Comptroller, Office of Contract Administration, 1 Centre Street, Room 835, New York, NY 10007; the telephone number is (212) 669-3000. In addition, the New York City Department of Investigation should be informed of such complaints at its Investigations Division, 80 Maiden Lane, New York, NY 10038; the telephone number is (212) 825-5959.
- B. Applicable Laws.** This procurement and the resulting contract award(s), if any, unless otherwise stated, are subject to all applicable provisions of New York State Law, the New York City Administrative Code, New York City Charter and New York City Procurement Policy Board (PPB) Rules. A copy of the PPB Rules may be obtained on the City's website at [www.nyc.gov/ppb](http://www.nyc.gov/ppb).
- C. General Contract Provisions.** Contracts shall be subject to New York City's general contract provisions, in substantially the form that they appear in "Appendix A—General Provisions Governing Contracts for Consultants, Professional and Technical Services" or, if the Department utilizes other than the formal Appendix A, in substantially the form that they appear in the Department's general contract provisions. A copy of the applicable document is available through the Authorized Agency Contact Person.
- D. Contract Award.** Contract award is subject to each of the following applicable conditions and any others that may apply: New York City Fair Share Criteria; New York City MacBride Principles Law; submission by the proposer of the requisite New York City Department of Business Services/Division of Labor Services Employment Report and certification by that office; submission by the proposer of the requisite VENDEX Questionnaires/Affidavits of No Change and review of the information contained therein by the New York City Department of Investigation; all other required oversight approvals; applicable provisions of federal, state and local laws and executive orders requiring affirmative action and equal employment opportunity; and Section 6-108.1 of the New York City Administrative Code relating to the Local Based Enterprises program and its implementation rules.
- E. Respondent Appeal Rights.** Pursuant to New York City's Procurement Policy Board Rules, respondents have the right to appeal Department non-responsiveness determinations and Department non-responsibility determinations and to protest a Department's determination regarding the solicitation or award of a contract.
- F. Multi-Year Contracts.** Multi-year contracts are subject to modification or cancellation if adequate funds are not appropriated to the Department to support continuation of performance in any City fiscal year succeeding the first fiscal year and/or if the contractor's performance is not satisfactory. The Department will notify the contractor as soon as is practicable that the funds are, or are not, available for the continuation of the multi-year contract for each succeeding City fiscal year. In the event of cancellation, the contractor will be reimbursed for those costs, if any, which are so provided for in the contract.
- G. Prompt Payment Policy.** Pursuant to the New York City's Procurement Policy Board Rules, it is the policy of the City to process contract payments efficiently and expeditiously.
- H. Confidential, Proprietary Information or Trade Secrets.** Respondents selected to proceed to Phase II negotiations should give specific attention to the identification of information that they give to the Department that they deem to be confidential, proprietary information or trade secrets and provide any justification of why such materials, upon request, should not be disclosed by the City. Such information must be easily separable from the non-confidential sections of the proposal. All information not so identified may be disclosed by the City.
- I. Vendex Fees.** Pursuant to PPB Rule 2-08(f)(2), the contractor will be charged a fee for the administration of the VENDEX system, including the Vendor Name Check process, if a Vendor Name Check review is required to be conducted by the Department of Investigation. The contractor shall also be required to pay the applicable required fees for any of its subcontractors for which Vendor Name Check reviews are required. The fee(s) will be deducted from payments made to the contractor under the contract. For contracts with an estimated value of less than or equal to \$1,000,000, the fee will be \$175. For contracts with an estimated value of greater than \$1,000,000, the fee will be \$350.
- J. Procurement Postponement/Cancellation.** The Department reserves the right to postpone or cancel this procurement, in whole or in part, and to reject all respondents.
- K. Respondent Costs.** Respondents will not be reimbursed for any costs incurred to prepare responses to this solicitation.
- L. Charter Section 312(a) Certification.** [If Applicable] The Agency has determined that the contract(s) to be awarded through this Procurement will not directly result in the displacement of any New York City employee.

\_\_\_\_\_  
Commissioner (Agency Chief Contracting Officer)

\_\_\_\_\_  
Date



**ATTACHMENT A**  
**COVER LETTER**

Negotiated Acquisition: Large Volume Vendors of Residential Toilet Fixtures in New York City  
PIN: 8262012TRP001

**Firm Name:**

\_\_\_\_\_

**Address:**

\_\_\_\_\_

\_\_\_\_\_

**Tax Identification #:** \_\_\_\_\_

**Applicant's Contact Person:**

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Telephone #:** \_\_\_\_\_ **Email:** \_\_\_\_\_

**Applicant's Authorized Representative:**

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Signature:**  
\_\_\_\_\_

**Date:** \_\_\_\_\_

**ATTACHMENT B**  
**DOING BUSINESS DATA FORM**

Negotiated Acquisition: Large Volume Vendors of Residential Toilet Fixtures in New York City  
PIN: 8262012TRP001

SEE FOLLOWING PAGES





# Doing Business Data Form

| To be completed by the City agency prior to distribution |                                     |                                   |   |
|--|-------------------------------------|-----------------------------------|---|
| Agency: _____  |                                     | Transaction ID: _____             |   |
| Check One:   | Transaction Type (check one):       |                                   |   |
| <input type="checkbox"/> Proposal                        | <input type="checkbox"/> Concession | <input type="checkbox"/> Contract | <input type="checkbox"/> Economic Development Agreement |
| <input type="checkbox"/> Award                           | <input type="checkbox"/> Franchise  | <input type="checkbox"/> Grant    | <input type="checkbox"/> Pension Investment Contract    |

Any entity receiving, applying for or proposing on an award or agreement must complete a Doing Business Data Form (see Q&A sheet for more information). Please either type responses directly into this fillable form or print answers by hand in black ink, and be sure to fill out the certification box on the last page. **Submission of a complete and accurate form is required for a proposal to be considered responsive or for any entity to receive an award or enter into an agreement.**

This Data Form requires information to be provided on principal officers, owners and senior managers. The name, employer and title of each person identified on the Data Form will be included in a public database of people who do business with the City of New York; no other information reported on this form will be disclosed to the public. **This Data Form is not related to the City's VENDEX requirements.**

Please return the completed Data Form to the City office that supplied it. Please contact the Doing Business Accountability Project at [DoingBusiness@cityhall.nyc.gov](mailto:DoingBusiness@cityhall.nyc.gov) or 212-788-8104 with any questions regarding this Data Form. Thank you for your cooperation.

## Section 1: Entity Information

Entity Name: \_\_\_\_\_

Entity EIN/TIN: \_\_\_\_\_

|  |
|--|
| <b>Entity Filing Status (select one):</b><br><input type="checkbox"/> Entity has never completed a Doing Business Data Form. <i>Fill out the entire form.</i><br><input type="checkbox"/> Change from previous Data Form dated _____. <i>Fill out only those sections that have changed, and indicate the name of the persons who no longer hold positions with the entity.</i><br><input type="checkbox"/> No Change from previous Data Form dated _____. <i>Skip to the bottom of the last page.</i> |
|--|

Entity is a Non-Profit:       Yes       No

Entity Type:     Corporation (any type)     Joint Venture     LLC     Partnership (any type)  
 Sole Proprietor     Other (specify): \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone : \_\_\_\_\_ Fax : \_\_\_\_\_

E-mail: \_\_\_\_\_

Provide your e-mail address and/or fax number in order to receive notices regarding this form by e-mail or fax.

**Section 2: Principal Officers**

Please fill in the required identification information for each officer listed below. If the entity has no such officer or its equivalent, please check "This position does not exist." If the entity is filing a Change Form and the person listed is replacing someone who was previously disclosed, please check "This person replaced..." and fill in the name of the person being replaced so his/her name can be removed from the *Doing Business Database*, and indicate the date that the change became effective.

**Chief Executive Officer (CEO) or equivalent officer** This position does not exist

The highest ranking officer or manager, such as the President, Executive Director, Sole Proprietor or Chairperson of the Board.

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last: \_\_\_\_\_

Office Title: \_\_\_\_\_

Employer (if not employed by entity): \_\_\_\_\_

Birth Date (mm/dd/yy): \_\_\_\_\_ Home Phone #: \_\_\_\_\_

Home Address: \_\_\_\_\_

This person replaced former CEO: \_\_\_\_\_ on date: \_\_\_\_\_

**Chief Financial Officer (CFO) or equivalent officer** This position does not exist

The highest ranking financial officer, such as the Treasurer, Comptroller, Financial Director or VP for Finance.

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last: \_\_\_\_\_

Office Title: \_\_\_\_\_

Employer (if not employed by entity): \_\_\_\_\_

Birth Date (mm/dd/yy): \_\_\_\_\_ Home Phone #: \_\_\_\_\_

Home Address: \_\_\_\_\_

This person replaced former CFO: \_\_\_\_\_ on date: \_\_\_\_\_

**Chief Operating Officer (COO) or equivalent officer** This position does not exist

The highest ranking operational officer, such as the Chief Planning Officer, Director of Operations or VP for Operations.

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last: \_\_\_\_\_

Office Title: \_\_\_\_\_

Employer (if not employed by entity): \_\_\_\_\_

Birth Date (mm/dd/yy): \_\_\_\_\_ Home Phone #: \_\_\_\_\_

Home Address: \_\_\_\_\_

This person replaced former COO: \_\_\_\_\_ on date: \_\_\_\_\_

**Section 3: Principal Owners**

Please fill in the required identification information for all individuals who, through stock shares, partnership agreements or other means, own or control 10% or more of the entity. If no individual owners exist, please check the appropriate box to indicate why and skip to the next page. If the entity is owned by other companies, those companies do not need to be listed. If an owner was identified on the previous page, fill in his/her name and write "See above." If the entity is filing a Change Form, list any individuals who are no longer owners at the bottom of this page. If more space is needed, attach additional pages labeled "Additional Owners."

**There are no owners listed because (select one):**

- The entity is not-for-profit
- There are no individual owners
- No individual owner holds 10% or more shares in the entity
- Other (explain): \_\_\_\_\_

**Principal Owners (who own or control 10% or more of the entity):**

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last: \_\_\_\_\_  
 Office Title: \_\_\_\_\_  
 Employer (if not employed by entity): \_\_\_\_\_  
 Birth Date (mm/dd/yy): \_\_\_\_\_ Home Phone #: \_\_\_\_\_  
 Home Address: \_\_\_\_\_

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last: \_\_\_\_\_  
 Office Title: \_\_\_\_\_  
 Employer (if not employed by entity): \_\_\_\_\_  
 Birth Date (mm/dd/yy): \_\_\_\_\_ Home Phone #: \_\_\_\_\_  
 Home Address: \_\_\_\_\_

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last: \_\_\_\_\_  
 Office Title: \_\_\_\_\_  
 Employer (if not employed by entity): \_\_\_\_\_  
 Birth Date (mm/dd/yy): \_\_\_\_\_ Home Phone #: \_\_\_\_\_  
 Home Address: \_\_\_\_\_

**Remove the following previously-reported Principal Owners:**

Name: \_\_\_\_\_ Removal Date: \_\_\_\_\_  
 Name: \_\_\_\_\_ Removal Date: \_\_\_\_\_  
 Name: \_\_\_\_\_ Removal Date: \_\_\_\_\_

**Section 4: Senior Managers**

Please fill in the required identification information for all senior managers who oversee any of the entity's relevant transactions with the City (e.g., contract managers if this form is for a contract award/proposal, grant managers if for a grant, etc.). Senior managers include anyone who, either by title or duties, has substantial discretion and high-level oversight regarding the solicitation, letting or administration of any transaction with the City. **At least one senior manager must be listed, or the Data Form will be considered incomplete.** If a senior manager has been identified on a previous page, fill in his/her name and write "See above." If the entity is filing a Change Form, list individuals who are no longer senior managers at the bottom of this section. If more space is needed, attach additional pages labeled "Additional Senior Managers."

**Senior Managers:**

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last: \_\_\_\_\_

Office Title: \_\_\_\_\_

Employer (if not employed by entity): \_\_\_\_\_

Birth Date (mm/dd/yy): \_\_\_\_\_ Home Phone #: \_\_\_\_\_

Home Address: \_\_\_\_\_

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last: \_\_\_\_\_

Office Title: \_\_\_\_\_

Employer (if not employed by entity): \_\_\_\_\_

Birth Date (mm/dd/yy): \_\_\_\_\_ Home Phone #: \_\_\_\_\_

Home Address: \_\_\_\_\_

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last: \_\_\_\_\_

Office Title: \_\_\_\_\_

Employer (if not employed by entity): \_\_\_\_\_

Birth Date (mm/dd/yy): \_\_\_\_\_ Home Phone #: \_\_\_\_\_

Home Address: \_\_\_\_\_

**Remove the following previously-reported Senior Managers:**

Name: \_\_\_\_\_ Removal Date: \_\_\_\_\_

Name: \_\_\_\_\_ Removal Date: \_\_\_\_\_

**Certification**

**I certify that the information submitted on these four pages and \_\_\_\_\_ additional pages is accurate and complete. I understand that willful or fraudulent submission of a materially false statement may result in the entity being found non-responsible and therefore denied future City awards.**

Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Entity Name: \_\_\_\_\_

Title: \_\_\_\_\_ Work Phone #: \_\_\_\_\_

Please return this form to the City agency that supplied it to you, not to the Doing Business Accountability Project.

For information or assistance, call the Doing Business Accountability Project at 212-788-8104.



DOING BUSINESS ACCOUNTABILITY PROJECT  
**QUESTIONS AND ANSWERS ABOUT THE DOING BUSINESS DATA FORM**

**What is the purpose of this *Data Form*?**

To collect accurate, up-to-date identification information about organizations that have business dealings with the City of New York in order to comply with Local Law 34 of 2007 (LL 34), a campaign finance reform law. LL 34 limits municipal campaign contributions from principal officers, owners and senior managers of entities doing business with the City and mandates the creation of a *Doing Business Database* to allow the City to enforce the law. The information requested in this *Data Form* must be provided, regardless of whether the organization or the people associated with it make or intend to make campaign contributions. No sensitive personal information collected will be disclosed to the public.

**Why have I received this *Data Form*?**

The contract, franchise, concession, grant or economic development agreement you are proposing on, applying for or have already been awarded is considered a business dealing with the City under LL 34. No proposal or application will be considered and no award will be made unless this *Data Form* is completed. Most transactions valued at more than \$5,000 are considered business dealings and require completion of the *Data Form*. Exceptions include transactions awarded on an emergency basis or by “conventional” competitive sealed bid (i.e. bids that do not use a prequalified list or “Best Value” selection criteria.) Other types of transactions that are considered business dealings include real property and land use actions with the City.

**What individuals will be included in the *Doing Business Database*?**

The principal officers, owners and certain senior managers of organizations listed in the *Doing Business Database* are themselves considered to be doing business with the City and will also be included in the *Database*.

- **Principal Officers** are the Chief Executive Officer (CEO), Chief Financial Officer (CFO) and Chief Operating Officer (COO), or their functional equivalents. See the *Data Form* for examples of titles that apply.
- **Principal Owners** are individuals who own or control 10% or more of the organization. This includes stockholders, partners and anyone else with an ownership or controlling interest in the entity.
- **Senior Managers** include anyone who, either by job title or actual duties, has substantial discretion and high-level oversight regarding the solicitation, letting or administration of any contract, concession, franchise, grant or economic development agreement with the City. At least one Senior Manager must be listed or the *Data Form* will be considered incomplete.

**I have already completed a *Doing Business Data Form*; do I have to submit another one?**

Yes. An organization is required to submit a *Doing Business Data Form* each time it enters into a transaction considered a business dealing with the City, including contract, concession and franchise proposals. However, the *Data Form* has both a Change option, which requires only information that has changed since the last *Data Form* was filed, and a No Change option. No organization should have to fill out the entire *Data Form* more than once.

If you have already submitted a *Data Form* for one transaction type (such as a contract), and this is the first time you are completing a *Data Form* for a different transaction type (such as a grant), please select the Change option and complete Section 4 (Senior Managers) for the new transaction type.

**Will the personal information on this *Data Form* be available to the public?**

No. The names and titles of the officers, owners and senior managers reported on the *Data Form* will be made available to the public, as will information about the organization itself. However, personal identifying information, such as home address, home phone and date of birth, will not be disclosed to the public, and home address and phone number information will not be used for communication purposes.



**I provided some of this information on the VENDEX Questionnaire; do I have to provide it again?**

Yes. Although the *Doing Business Data Form* and the VENDEX Questionnaire request some of the same information, they serve entirely different purposes. In addition, the *Data Form* requests information concerning senior managers, which is not part of the VENDEX Questionnaire.

**What organizations will be included in the *Doing Business Database*?**

Organizations that hold \$100,000 or more in grants, contracts for goods or services, franchises or concessions (\$500,000 for construction contracts), or that hold any economic development agreement or pension fund investment contract, are considered to be doing business with the City for the purposes of LL 34. Because all of the business that an organization does or proposes to do with the City will be added together, the *Data Form* must be completed for all transactions valued at more than \$5,000 even if the organization doesn't currently do enough business with the City to be listed in the *Database*.

**No one in my organization plans to contribute to a candidate; do I have to fill out this *Data Form*?**

Yes. All organizations are required to return this *Data Form* with complete and accurate information, regardless of the history or intention of the entity or its officers, owners or senior managers to make campaign contributions. The *Doing Business Database* must be complete so that the Campaign Finance Board can verify whether future contributions are in compliance with the law.

**My organization is proposing on a contract with another firm as a Joint Venture that does not exist yet; how should the *Data Form* be completed?**

A joint venture that does not yet exist must submit a *Data Form* for each of its component firms. If the joint venture receives the award, it must then complete a form in the name of the joint venture.

**How long will an organization and its officers, owners and senior managers remain listed on the *Doing Business Database*?**

- **Contract, Concession and Economic Development Agreement holders:** generally for the term of the transaction, plus one year.
  - **Franchise and Grant holders:** from the commencement or renewal of the transaction, plus one year.
  - **Pension investment contracts:** from the time of presentation on an investment opportunity or the submission of a proposal, whichever is earlier, until the end of the contract, plus one year.
  - **Line item and discretionary appropriations:** from the date of budget adoption until the end of the contract, plus one year.
  - **Contract proposers:** for one year from the proposal date or date of public advertisement of the solicitation, whichever is later.
  - **Franchise and Concession proposers:** for one year from the proposal submission date.
- For information on other transaction types, contact the Doing Business Accountability Project.

**How does a person remove him/herself from the *Doing Business Database*?**

When an organization stops doing business with the City, the people associated with it are removed from the *Database* automatically. However, any person who believes that s/he should not be listed may apply for removal. Reasons that a person would be removed include his/her no longer being the principal officer, owner or senior manager of the organization. Organizations may also update their database information by submitting an update form. Removal Request and Update forms are available online at [www.nyc.gov/mocs](http://www.nyc.gov/mocs) (once there, click MOCS Programs) or by calling 212-788-8104.

**What are the new campaign contribution limits for people doing business with the City?**

Contributions to City Council candidates are limited to \$250 per election cycle; \$320 to Borough President candidates; and \$400 to candidates for citywide office. Please contact the NYC Campaign Finance Board for more information at [www.nycffb.info](http://www.nycffb.info), or 212-306-7100.

**The *Data Form* is to be returned to the City office that issued it.**

If you have any questions about the *Data Form* please contact the Doing Business Accountability Project at 212-788-8104 or [DoingBusiness@cityhall.nyc.gov](mailto:DoingBusiness@cityhall.nyc.gov).

**ATTACHMENT C**  
**IRAN DIVESTMENT ACT COMPLIANCE RIDER AND CERTIFICATE**

Negotiated Acquisition: Large Volume Vendors of Residential Toilet Fixtures in New York City  
PIN: 8262012TRP001

SEE FOLLOWING PAGES

**IRAN DIVESTMENT ACT COMPLIANCE RIDER FOR  
NEW YORK CITY CONTRACTORS**

**The Iran Divestment Act of 2012, effective as of April 12, 2012, is codified at State Finance Law (“SFL”) §165-a and General Municipal Law (“GML”) §103-g. The Iran Divestment Act, with certain exceptions, prohibits municipalities, including the City, from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Pursuant to the terms set forth in SFL §165-a and GML §103-g, a person engages in investment activities in the energy sector of Iran if:**

**(a) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or**

**(b) The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to paragraph (b) of subdivision three of Section 165-a of the State Finance Law and maintained by the Commissioner of the Office of General Services.**

**A bid or proposal shall not be considered for award nor shall any award be made where the bidder or proposer fails to submit a signed and verified bidder’s certification.**

**Each bidder or proposer must certify that it is not on the list of entities engaged in investment activities in Iran created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. In any case where the bidder or proposer cannot certify that they are not on such list, the bidder or proposer shall so state and shall furnish with the bid or proposal a signed statement which sets forth in detail the reasons why such statement cannot be made. The City of New York may award a bid to a bidder who cannot make the certification on a case by case basis if:**

**(1) The investment activities in Iran were made before the effective date of this section (i.e., April 12, 2012), the investment activities in Iran have not been expanded or renewed after the effective date of this section and the person has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran: or**

**(2) The City makes a determination that the goods or services are necessary for the City to perform its functions and that, absent such an exemption, the City would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.**

**BIDDER'S CERTIFICATION OF COMPLIANCE WITH  
IRAN DIVESTMENT ACT**

Pursuant to General Municipal Law §103-g, which generally prohibits the City from entering into contracts with persons engaged in investment activities in the energy sector of Iran, the bidder/proposer submits the following certification:

*[Please Check One]*

**BIDDER'S CERTIFICATION**

- By submission of this bid or proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief, that each bidder/proposer is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law.
  
- I am unable to certify that my name and the name of the bidder/proposer does not appear on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. I have attached a signed statement setting forth in detail why I cannot so certify.

Dated: \_\_\_\_\_, New York  
\_\_\_\_\_, 20\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

Dated:

**Attachment E**  
**Proposal Format**

Negotiated Acquisition: Large Volume Vendors of Residential Toilet Fixtures in New York City  
PIN: 8262012TRP001

As explained in Section IV of the Solicitation, the following criteria shall be used to assess each responsive Proposal:

- Experience and capabilities of each vendor and appropriateness of the proposed Business Plan;
- Demonstrated site control of participating facilities;
- Demonstrated quantity and quality of successful relevant experience; and
- Demonstrated personnel and IT infrastructure.

Considering the preceding criteria, each Applicant shall address each of the following items A through C in its Narrative. Each Applicant shall clearly mark its Narrative so that its responses to each of the following items A through C are identified. The Narrative section of Proposals may not exceed 15 pages in length.

A. Business Plan

1. Fully describe each proposed facility that will be participating in the TRP. Explain how and why the proposed facility is appropriate to provide goods and services under the TRP.
2. Describe the location, interior square footage (warehouse), loading docks, lot size, a description of outdoor storage space (if applicable) including parking facilities of your facility. Describe the proposed inventory volumes for specified toilet models, demonstration that the proposed facility is appropriate to provide manufacturing, sales and distribution services or a combination thereof under the TRP, and brief explanation of the current business use of that facility.
3. Provide proof of toilet fixture sales volumes over the last 2 years (2011-2012).
4. Describe current capacity and ability to acquire and maintain appropriate level of product on hand to meet the needs of the program.
5. Provide a description of the proposed process for storing and handling discarded toilets. A graphic or site map of the location for the proposed 40-yard roll-off container should be included.

B. Demonstrated personnel and IT infrastructure

1. Describe your proposed plan and capability for managing the TRP web portal for fixture voucher issuance and redemption; and
2. Describe your relevant experience and prior performance in tasks similar to those described in (B)(1), above.

C. General Experience

Describe your previous experience doing business as it relates to the sale and distribution of toilet fixtures in the City, considering factors such as volume, capacity, location and various customer groups.



**ATTACHMENT F**  
**NOTICE TO BIDDERS, PROPOSERS, CONTRACTORS, AND RENEWAL**  
**CONTRACTORS**

Negotiated Acquisition: Large Volume Vendors of Residential Toilet Fixtures in New York City  
PIN: 8262012TRP001

**NOTICE TO BIDDERS, PROPOSERS, CONTRACTORS, AND RENEWAL**  
**CONTRACTORS**

This contract includes a provision concerning the protection of employees for whistleblowing activity, pursuant to New York City Local Law Nos. 30-2012 and 33-2012, effective October 18, 2012 and September 18, 2012, respectively. The provisions apply to contracts with a value in excess of \$100,000.

Local Law No. 33-2012, the Whistleblower Protection Expansion Act (“WPEA”), prohibits a contractor or its subcontractor from taking an adverse personnel action against an employee or officer for whistleblower activity in connection with a City contract; requires that certain City contracts include a provision to that effect; and provides that a contractor or subcontractor may be subject to penalties and injunctive relief if a court finds that it retaliated in violation of the WPEA. The WPEA is codified at Section 12-113 of the New York City Administrative Code.

Local Law No. 30-2012 requires a contractor to prominently post information explaining how its employees can report allegations of fraud, false claims, criminality, or corruption in connection with a City contract to City officials and the rights and remedies afforded to employees for whistleblowing activity. Local Law No. 30-2012 is codified at Section 6-132 of the New York City Administrative Code.



Displacement Determination Form – Pursuant to City Charter § 312(a)  
*(for PSRs or equivalent pre-procurement documents)*

***This form must be used to certify whether or not there is displacement in the instant contracting action, as defined in City Charter § 312(a) (as amended by Local Law 63 of 2011). You can either certify that there is no displacement by completing Part 1 of this form, or you can certify that there is displacement by completing Part 2 of this form.***

***If the contract that you are awarding is a task order contract that does not simultaneously result in the award of a first task order, then you must check the box on the bottom of this page; displacement determinations will be made in conjunction with the issuance of task orders pursuant to the subject contract. If the contract that you are awarding does simultaneously result in the award of a first task order, then the displacement determination for that first task order must be done prior to issuance of the solicitation and you must complete either Part 1 or Part 2 of this form.***

**If you have any questions about Local Law 63 or about completing this form, please contact the Mayor's Office of Contract Services at [APTLL63@cityhall.nyc.gov](mailto:APTLL63@cityhall.nyc.gov) or (212) 788-0010.**

**Procurement Description:**

**APT EPIN:**

**Your Name:** Vlada Kenniff

**Phone:** (718) 595-4364

**Email:** [vladas@dep.nyc.gov](mailto:vladas@dep.nyc.gov)

Please specifically identify the service(s) being procured.

- 1) Sales of up to 250,000 low flow, WaterSense EPA certified toilets at an established retail facility.
- 2) Ability to provide space for a 40 yard roll off container on site for discarded toilets.
- 3) Ability to have computer equipment on site to accommodate deactivation of vouchers which will be submitted by customers wishing to purchase toilets.

If the contract to be awarded as a result of this procurement action is a task order contract (multiple or single award and multiple or single agency) that does not simultaneously result in the award of a first task order, then displacement determinations will be made in conjunction with the issuance of task orders pursuant to the subject contract. (Check this box *only* if you are completing this form for a task order contract that will *not* simultaneously result in the award of the first task order. If you check this box, do not fill out the remainder of this form.)

If the contract to be awarded as a result of this procurement action *does* simultaneously result in the award of a first task order, then the displacement determination for that first task order must be done prior to issuance of the solicitation and you must complete either Part 1 or Part 2 of this form.

**Part 1: Certification of No Displacement**

**The Agency has determined that the contract resulting from this procurement action *will not* result in the displacement of any City employee within this Agency, as defined by Charter § 312(a).**

The basis upon which the Agency has made this determination (Please answer *all* questions under Part 1):

Do any civil service and/or job titles within this Agency currently perform the services sought by the proposed contract and/or services of a substantially similar nature or purpose?

Yes  No

If so, list the names of such titles and the extent to which Agency employees within such titles currently perform such services.

Do the services sought by the proposed contract expand, supplement, or replace existing services?

Yes  No

In either event, include a detailed description comparing the services sought by the proposed contract with such existing services.

Is there capacity within the Agency to perform the services sought by the proposed contract?

Yes  No

If not, provide a detailed description specifying the ways in which the Agency lacks such capacity.

For the term of the proposed contract, list the projected headcount of employees within such titles or employees who perform such services and/or services of a substantially similar nature or purpose.



Check this box to confirm that none of the below events have occurred within the Agency in the past three years.

- The displacement of a City employee within the agency who performs or has performed the services sought by the proposed contract and/or services of a substantially similar nature or purpose; or
- The announcement of spending reductions in connection with a budgetary program, including but not limited to a Program to Eliminate the Gap, that could result or has resulted in the displacement of a City employee within the Agency who performs or has performed the services sought by the proposed contract and/or services of a substantially similar nature or purpose; or
- Any other statement by an Agency or by the Mayor of a specific anticipated employment action that could result or has resulted in the displacement of a City employee within the Agency who performs or has performed the services sought by the proposed contract and/or services of a substantially similar nature or purpose.

List any other bases for the Agency's determination that the contract resulting from this procurement action will not result in the displacement of any City employee within this Agency.

1) The agency does not operate a retail location and historically has not sold toilets to private customers.

**Part 2: Certification of Displacement**



The agency has determined that displacement, as defined by Charter § 312(a), has or will occur as a result of this contracting action. The agency has performed the required cost-benefit analysis, as described in Charter § 312(a).