

**Texas Disposal Systems Comparison of Staff Proposed ALO Revisions vs.
Council Working Group Recommendations**

October 6, 2017

<u>Working Group Recommendation</u>	<u>Staff Proposal</u>
<ul style="list-style-type: none"> • Apply the ALO ordinance only to the solicitation. Vendors may communicate on all other matters without violating the ALO. 	<ul style="list-style-type: none"> • Staff proposed language can be interpreted to include the restriction applying to communication far beyond the specific solicitation.
<ul style="list-style-type: none"> • Apply the ALO from the time a RFP is released through Council’s vote on executing the contract. Should an RFP be pulled down, the ordinance does not apply during the timeframe the RFP is pulled down. 	<ul style="list-style-type: none"> • ALO applies from the time any undefined response to a solicitation is due, until various points after the Council votes to approve a contract.
<ul style="list-style-type: none"> • Narrow the definition of representations to target lobbying. For instance, if staff tells a vendor that the ALO does not apply and a communication is allowable – then the vendor cannot be later be disqualified as violating the ordinance by the communication. 	<ul style="list-style-type: none"> • Purchasing officer is given broad authority to determine whether or not a violation should be assessed. Staff also has given themselves the authority to unilaterally impose recusal on any City employee, CM, or B&C member.
<ul style="list-style-type: none"> • Add communications regarding existing contracts to “Permitted Communications”. 	<ul style="list-style-type: none"> • Only existing contracts between a communicating respondent and the City are exempt.
<ul style="list-style-type: none"> • Develop a body of Rules in a companion document to the ALO that defines enforcement, appeal, complaint, and debarment procedures. Rules should: <ol style="list-style-type: none"> a. Clarify current definition of “Representation” and what triggers debarment. b. Clarify procedures for determining violations, judgement, and penalty enforcement, and incorporate a third party reviewer such as the Ethics Review Commission to determine violations, judgement, and penalty enforcement. c. Clarify process for submitting and facilitating complaints. d. City purchasing and legal should develop this companion document for approval by Council and prepare any language updates to the ALO that might be required to allow for adopted rules in the companion document. 	<ul style="list-style-type: none"> • Staff has not proposed rules for the ALO <ol style="list-style-type: none"> a. Not addressed by staff. b. Staff explicitly states that there will be no third party review, oversight or appeal of any kind. c. Staff has completely removed the process for receiving and communicating complaints re: the solicitation to Council. d. Staff explicitly states that Rules will not be presented to or approved by Council.
<ul style="list-style-type: none"> • Existing ALO should remain suspended until Council approves proposed revisions. 	<ul style="list-style-type: none"> • Not addressed by staff.
<ul style="list-style-type: none"> • Purchasing Office should receive and compile further stakeholder input for Council and will work with adopted input as determined by Council. 	<ul style="list-style-type: none"> • Purchasing office solicited no such additional stakeholder input prior to taking the ALO revisions to Council seeking approval on 9/28/17.