

**From:** Adam Gregory  
**Sent:** Tuesday, May 14, 2019 2:45 PM  
**To:** 'ARR.solicitations@austintexas.gov'  
**Subject:** TDSL Protest Type I & IV RFI 1500 SLW6002  
**Attachments:** TDSL Protest RFI 1500 SLW6002.pdf; TDSL Protest Attachment 1.pdf; TDSL Protest Attachment 2.pdf; TDSL Protest Attachment 3.pdf; TDSL Protest Attachment 4.pdf

Please find Texas Disposal Systems Landfill, Inc.'s scoring protest for RFI 1500 SLW6002 Attached

Thank you,

Adam Gregory

**City of Austin Request for Information No. 1500 SLW6002  
Type I and Type IV Landfill Criteria Matrix for Landfill Eligibility**

**Scoring Protest Submitted By  
Texas Disposal Systems Landfill, Inc.  
3016 FM 1327  
Creedmoor, Texas 78610  
(512) 421-1300 – Main  
(512) 243-4123 – Fax**

Texas Disposal Systems Landfill, Inc. (TDSL) submitted a timely response to Request for Information (RFI) 1500 SLW6002 – Type I and Type IV Landfill Criteria Matrix for Landfill Eligibility - on February 12, 2019 (Attachment 1). On May 1, 2019 TDSL received and became aware of the City staff's scoring of TDSL's response submitted to the City (Attachment 2). TDSL received 68 of 100 available points for its response to the Type I landfill criteria matrix, and 50 of 80 available points for its response to the Type IV landfill criteria matrix. On May 2, 2019 TDSL filed a timely notice of intent to protest, and formally requested a written explanation of all scoring point deductions determined by City staff (Attachment 3). On May 13, 2019, TDSL received the City staff's written explanation of the scoring point deductions for both of TDSL's Type I and Type IV Landfill Criteria Matrices (Attachment 4).

In accordance with the Protest Procedures outlined in Section 2.4 of RFI 1500 SLW6002, TDSL protests the City staff's scoring of TDSL's February 12, 2019 response on the following grounds:

- RFI's cannot be used to for any purpose other than gathering information. Any determination of eligibility may not be made based on responses to an RFI.
- TDSL has had NO severe injuries or catastrophes at any point in its history. Staff statements to the contrary are incorrect and must not be the basis for deductions from TDSL's score.

**Criteria #1c / Type I Landfill – TDSL received none of the available points for Landfill Gas Beneficial Reuse**

**Criteria Intent:** Minimize the generation of landfill gas and beneficially use what is produced in ways that replace carbon-based energy sources.

**Criteria Description:** The Landfill Operator shall provide information on its current uses of its landfill gas. This does not include waste-to-energy technologies, except for normally occurring landfill gas-to-energy, not including bioreaction. For example, the Landfill Operator could use landfill gas to produce electricity, fuel vehicles, or generate space heating, or the landfill gas could be fed into a natural gas line for off-site uses.

**Criteria Measure:** The Landfill Operator will receive full credit for LFG beneficial reuse at the landfill. An operator of a new landfill that is not required to report USEPA FLIGHT will receive full credit but only in its first two years of operation.

**Available Points:** 2

This criteria gives an unfair advantage to older landfills that have not been successfully operated to minimize the generation of landfill gas and have been purposefully operated to generate large quantities of landfill gas to maximize in-cell waste settlement and compaction and to maximize the revenue gained from captured landfill gas sales. It takes a great deal of waste in place to generate a reliable quantity of landfill gas to produce electricity, supply landfill gas to a pipeline, or some other beneficial use other than flaring. Further, it penalizes a landfill for successfully limiting landfill gas production, when by design, it takes much more time for enough gas to be generated to make beneficial re-use of landfill gas economically feasible. These two approaches represent two very different business models. One maximizes landfill gas production and compresses that gas production over the shortest period of time possible; the other model promotes dry entombment, which minimizes landfill gas production and extends that production of landfill gas over a longer period of time, allowing the landfill operator to better control the generation of landfill gas and much better control the releases of methane gas and landfill odor causing emissions into the atmosphere.

Further, this criteria is inexplicably omitted from the evaluation matrix for “C&D” or Type IV landfill facilities, despite the fact that the only Austin area Type IV landfill recently implemented corrective action for migration of landfill gas outside the waste containment cell.

That said, TDSL currently flares all of the landfill gas it collects, as we continue to evaluate the amount of landfill gas the newly expanded landfill gas collection system’s additional 60 collection wells will collect and determine when we have sufficient landfill gas generation to justify the addition of a landfill gas to energy plant to produce the electricity needed to power onsite electric motors and to desalinate brackish groundwater to supply potable water to the City of Austin and to others. TDSL is in a stage of its dry entombment landfill development method of filling that has sufficient tonnage of waste in place to justify the installation of a landfill gas collection system, but not enough landfill gas generation to cause a problem for our neighbors and insufficient volumes of gas to justify the installation of a landfill gas to energy facility. The success TDSL has had in minimizing landfill odors and remaining a good neighbor over the past 28 years of operation is testimony to the Community Impact success story of our dry entombment method of landfilling. We believe it would be inappropriate for the staff to impose a Landfill Criteria Matrix that denies TDSL points for not producing enough landfill gas to yet justify a Landfill gas to energy plant, while rewarding other landfills for accelerated landfill gas generation business models.

**Criteria #3b/ Type I & Type IV Landfill - TDSL received none of the available points for Onsite Fatalities or Catastrophes**

**Criteria Intent:** Minimize the safety risk to the landfill's employees and others onsite.

**Criteria Description:** The Landfill Operator shall provide OSHA's most recent Severe Injury Reports and OSHA's Fatality Inspection Data for the past five year.

**Criteria Measure:** The Landfill Operator will receive full credit for having no severe injuries, fatalities, or catastrophes within the past five years.

**Available Points:** 15

This criteria is flawed in the same manner as 5.1 F. The reports are based on a legal entity that may do much more than operate a landfill. This means an entity may have many different activities in addition to the landfill and even landfill diversion operations that could be included in the same report as the landfill. Fatalities are rare, as are severe injuries, but the possibility of one occurring on a facility with hundreds of employees working on the site is much more likely to occur than on the site of a simple landfill with no associated operations and a single shift of ten to twenty employees. Yet a single such injury would cause the landfill to lose the points for at least five years under the staff's approach for an injury in an operation on the site that has nothing to do with the landfill operation. This would also ignore the fact that in many instances fatalities or severe injuries that must be reported are not in any way caused by the negligence of the landfill operator.

**That said, TDSL has zero entries in the Severe Injury Reports or in the Fatality Inspection Data within the past five years. Since the Severe Injury Reports and Fatality Inspection Data are many thousands of pages, and no entries pertain to TDSL, we have elected not to provide the Reports or Data themselves.**

Staff has reported to Texas Disposal Systems Landfill, Inc. (TDSL) that "OSHA severe injury report indicates multiple severe injuries". This is patently false. While we are intimately familiar with the history of TDSL and can certify that no severe injuries, fatalities or catastrophes have ever occurred or been reported by TDSL, we have also conducted a detailed review of the records that staff purports contain evidence of "multiple severe injuries" and have found no records substantiating staff's statement. TDSL protests this unfounded deduction from our score and insists that all available points in this category be added to our score. TDSL is the Landfill Operator and the respondent to the City's RFI, if the staff has any record of severe injuries, fatalities or catastrophes in the name of TDSL they should produce those records, otherwise our protest must be granted.

**Criteria #4a / Type I & Type IV Landfill – TDSL received none of the available points for Workforce Diversity Policy**

**Criteria Intent:** Support and minimize harm to potentially impacted neighboring communities and provide equitable compensation and advancement opportunities.

**Criteria Description:** The Landfill Operator shall provide documentation affirmative hiring and diversity advancement policies.

**Criteria Measure:** The Landfill Operator will receive all available points for providing documentation of affirmative hiring (including a Fair Chance hiring policy) and diversity advancement policies within the landfill operations.

**Available Points: 15**

Allocating fifteen out of the one hundred points available for a Type I landfill and fifteen out of eighty points available for a Type IV landfill merely for an operator stating that they now have or that they will have such a policy when their landfill opens serves no other purpose than to give away points to help all landfill facilities to improve their scores and to dilute the weight of more germane criteria, such as Community Impact considerations which have no points assigned to them, including the presence of huge volumes of hazardous waste in unlined areas within a landfill, and how the landfill's proximity to the end of the main runway at the City's airport and the risk of a bird strike can impact the community. Further, this criteria related to Workforce Diversity Hiring and Advancement Policy may violate the Texas Constitution's "Due Course of Law" Provision in Article 1, Section 19 because it is not rationally related to a governmental interest.

**That said, TDSL is an equal employment opportunity employer. As such TDSL offers equal employment opportunities without regard to race, color, religion, sex (including pregnancy), national origin, age, disability, genetic information, veteran status, or any other status protected by law. These opportunities include all terms, conditions, and privileges of employment, including but not limited to recruitment, selection, hiring, job placement, training, compensation, discipline, discharge, advancement and termination. It is also TDSL's policy that any form of discrimination or harassment on the basis of race, color, religion, sex (including pregnancy), sexual orientation, national origin, age, disability, genetic information, veteran status, or any other status protected by law, will not be tolerated in the work place.**

**While TDSL does not attempt to address every situation that may arise in a written policy, TDSL's practice is to encourage flexibility in its managers and contractors in their attempting to meet accommodation requests and achieve current best-practice diversity goals wherever possible, given funding and work-product requirements. TDSL seeks to encourage commitment to an interactive process between the management and employees of its contractors in their recruiting, retention and advancement practices that is sensitive to non-discriminatory and diversity-focused goals and concerns.**

**Further, TDSL's hiring practices are consistent with the City of Austin's Fair Chance Hiring Ordinance.**

BID PROPOSAL RECEIPT  
HAND DELIVERY

Solicitation No: RFI SLW6002

Offeror's Name: Texas Disposal Systems Landfill

Received By: GAN

RECEIVED  
2019 FEB 12 PM 1:55  
PURCHASING OFFICE  
CITY OF AUSTIN, TEXAS

See addendums attached:

#1) 1-7-19: The Landfill Criteria Matrix has been replaced in its entirety as Version 2 Landfill Criteria Matrix.

#2) 1-29-19: Changes to the solicitation due date as follows: 1) bid due 2:00 PM TUESDAY, Feb 12, 2019  
2) bid opening date 3:00 PM TUESDAY, Feb. 12, 2019



CITY OF AUSTIN, TEXAS  
Request for Information (RFI)  
Cover Sheet



SOLICITATION NO: RFI 1500 SLW6002, Landfill Criteria Matrix for Landfill Eligibility

COMMENTS DUE: 2:00 PM (Central Time), Tuesday, ~~January 29, 2019~~ February 12, 2019

The purpose of this Request for Information ("RFI") is to gather responsive data from permitted landfill operators ("Landfill Operators") to establish eligibility to receive municipal solid waste ("MSW") controlled by the City of Austin ("City"). The goal of this process is to ensure that Landfill Operators competing for City contracts adhere to the best operational practices of landfill management.

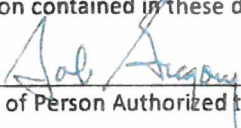
**IMPORTANT:** The City will use responses to this RFI to establish landfills eligible to receive City-controlled MSW. Responses will be scored based on the Landfill Criteria Matrix ("Matrix") to develop a list of landfills eligible to receive City-controlled MSW as part of the City procurement process. Future procurements will restrict contract awards to processors and haulers that use only eligible landfills. Any permitted landfill operator who wishes to process or accept City-controlled MSW must complete and submit this RFI in accordance with the guidelines below to be considered for eligibility as a disposal site for City-controlled MSW.

Note that the responsiveness and eligibility of Landfill Operators may also affect contract eligibility for trash haulers. Eligibility decisions will exclude consideration of the disposal and hauling of residuals resulting from the processing of City-controlled recyclables or compostable material.

**SUBMISSION OF RESPONSES:** All completed responses to this RFI are due by Tuesday, ~~January 29, 2019~~ February 12, 2019 at 2:00 PM (CT). To be considered for eligibility, Landfill Operators must submit all answers, comments, questions, and suggestions with this cover sheet via email to [ARR.Solicitations@austintexas.gov](mailto:ARR.Solicitations@austintexas.gov) and hardcopy mailed to City of Austin; Austin Resource Recovery – Finance Solicitations; P.O. Box 1088; Austin, TX 78767; by the due date and time above.

Add'l. Delivery: Central Purchasing, 124 W. 8th Street, Austin, TX 78701 (Only noted online on solicitation details)  
All material submitted to the City becomes public property and is subject to the Texas Open Records Act upon receipt.  
No information submitted in response to the RFI should contain proprietary and/or confidential information.

The undersigned ("Respondent"), by their signature, acknowledges that they are authorized to represent the organization below. The Respondent, by submitting and signing below, acknowledges that this request is not a solicitation and will not result in a contract award. Additionally, the undersigned also certifies that the statements and information contained in these documents are true, accurate, and complete.

  
Signature of Person Authorized to Sign

Bob Gregory, President  
Signer's Name and Title (Please Print)

Company Name: Texas Disposal Systems Landfill, Inc.

Address: 3016 F.M. 1327

City, State, Zip Code: Creedmoor, Texas 78610

Phone No. ( 512 ) 421-1300

Email Address: bgregory@texasdisposal.com



**ADDENDUM  
LANDFILL CRITERIA MATRIX FOR LANDFILL ELIGIBILITY  
CITY OF AUSTIN, TEXAS**

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**Solicitation: RFI 1500 SLW6002**

**Addendum No: 1**

**Date of Addendum: 1/7/2019**

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This addendum is to incorporate the following changes to the above referenced solicitation:

**I. Clarifications:**

- 1) The Landfill Criteria Matrix has been replaced in its entirety as **VERSION 2** Landfill Criteria Matrix. The text below was removed from the notes Criteria 4b. for Type I and Type IV landfills.

"In addition, per a Supplemental Bid Document for Living Wage and Benefits, contractors must offer health insurance with optional family coverage for applicable Contractor employees."





**ADDENDUM  
LANDFILL CRITERIA MATRIX FOR LANDFILL ELIGIBILITY  
CITY OF AUSTIN, TEXAS**

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<b>Solicitation: RFI 1500 SLW6002</b>	<b>Addendum No: 2</b>	<b>Date of Addendum: 1/29/2019</b>
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This addendum is to incorporate the following changes to the above referenced solicitation:

**I. Changes to the solicitation due date as follows:**

- 1) The bid due date is hereby extended until 2:00 PM Tuesday, February 12, 2019.
- 2) The bid opening date is hereby extended until 3:00 PM Tuesday, February 12, 2019.

## 1.0 BACKGROUND

In March 2017, the City Council approved Resolution No. 20170323-055 to form a Waste Management Policy Working Group (“Working Group”) to examine waste management and biosolids policy issues and contracts. The Working Group recommended the development of criteria in the form of a matrix to help identify Landfill Operators eligible for City contracts involving City-controlled MSW. The resulting Matrix is intended to ensure that Landfill Operators and haulers competing for City contracts are adhering to best operational practices relating to carbon footprint, environment, safety, community impact, and social equity.

## 2.0 LANDFILL SCORE PROCEDURE

- 2.1 The City will determine a score (“Landfill Score”) for each Landfill Operator using the criteria and measurements described in the Matrix. NOTE: Please reference the Matrix. The scores for Matrix Items 1a, 2a, and 3b will be based on publicly available information from local, state, or federal public agencies and on the Landfill Operator’s responses to this RFI.
- 2.2 The Landfill Score will apply only to the landfill operations that will be receiving MSW (Type I or Type IV landfills) as part of a City procurement. The Landfill Score does not apply to industrial, hazardous, or construction debris materials.
- 2.3 All Respondents will receive notification on their eligibility status from the City within 90 calendar days after the closing date of the RFI. Eligible Landfill Operators will be included on a landfill eligibility list (“Eligibility List”) attached to future procurements that include the disposal of City-controlled MSW.
- 2.4 Protest Procedure
  - 2.4.1 The Landfill Operator may only protest their own score and must file written notice of their intent to protest their own score within four calendar days of the date that the score was sent to the Landfill Operator. If the Landfill Operator does not file a written notice of intent within this time, they have waived all rights to protest their eligibility.
  - 2.4.2 The Landfill Operator must file their written protest within fourteen calendar days of the date that the score was sent to the Landfill Operator. All protests must be concise and presented logically and factually to help with the City’s review. All protests must be submitted in writing and include the following information:
    - A. The Landfill Operator’s name, address, telephone, and fax number;
    - B. The solicitation number; and
    - C. A detailed statement of factual grounds for the protest, including copies of any relevant documents.
    - D. The relief that the Landfill Operator is requesting.
  - 2.4.3 When the City receives a timely written protest, City staff (“staff”) will determine whether the grounds for the protest are sufficient. If the City decides that the grounds are sufficient, staff will schedule a protest hearing with an independent hearings officer. If staff determines that the grounds are insufficient, the City will notify the Landfill Operator of that decision in writing.
  - 2.4.4 The protest hearing is informal and is not subject to the Open Meetings Act. The purpose of the hearing is to give the Landfill Operator a chance to present their case; it is not an adversarial proceeding. Those who may attend from the City are: representatives from Austin Resource Recovery, the Department of Law, the Purchasing Office, and other appropriate City staff. The Landfill Operator may bring a representative or anyone else

that will present information to support the factual grounds for their protest to the hearing.

- 2.4.5 A decision will usually be made within fifteen calendar days after the hearing. The City will send the Landfill Operator a copy of the hearing decision after the appropriate City staff have reviewed the decision.
- 2.5 The Matrix for Type I landfill disposal will have a maximum score of 100 points. The Matrix for Type IV landfill disposal will have a maximum score of 80 points. On each list, landfills with scores within 25 points of the highest scoring landfill would be eligible to receive City-controlled MSW. For criteria that don't apply to a landfill (for example, an out-of-state landfill subject to another state's landfill regulations or new landfills with no compliance history), the Austin Resource Recovery ("ARR") Director will determine alternative equivalent measures. Any procurements for these services would restrict bidders to using only eligible landfills.
- 2.6 Landfills with a current unsatisfactory compliance rating from the Texas Commission on Environmental Quality ("TCEQ") or similar out-of-state agency, or an enforcement order, court order, consent decree, or criminal conviction related to United States Environmental Protection Agency ("US EPA") or TCEQ violations, or placed on the EPA's National Priority List ("NPL") shall not be eligible to receive City-controlled MSW until the violation is fully remediated and the operation is fully compliant with the EPA and TCEQ or similar out-of-state agency.
- 2.7 The resulting Landfill Operator eligibility will remain in effect until the City releases a new Eligibility List resulting from a future landfill eligibility RFI. Once a contract has been awarded to an eligible Landfill Operator, changes in future Landfill Scores will not affect that contract unless the change is due to an infraction listed in section 2.6 above.

### 3.0 RESPONSE REQUIREMENTS

- 3.1 Any Landfill Operator who wishes to be considered for eligibility and considered in future procurements for processing City-controlled MSW must respond in writing with all information requested in Sections 4 and 5 and submit the responses in accordance with guidelines herein. Landfill Operators shall submit responses in both electronic and hardcopy format. Should conflicting information be submitted, the electronic information will supersede hardcopy information.
  - 3.1.1 Electronic Responses: Electronic responses to the RFI shall be submitted:
    - A. With responses separated by file folder for the information requested in Section 4 (Basic Information, Company Overview, Landfill Location, Landfill Compliance, and Alternative Equivalent Measures);
    - B. With responses separated by file folder for each scoring question in Section 5 (example: Section 5, **I. Matrix Item 1b**); and
    - C. To the following e-mail address: [ARR.Solicitations@austintexas.gov](mailto:ARR.Solicitations@austintexas.gov).
  - 3.1.2 Hardcopy Responses: Hardcopy responses to the RFI shall be submitted:
    - A. In a three-ring binder with a minimum size of 8.5"x11";
    - B. With responses separated by tabs for the information requested in Section 4 (Basic Information, Company Overview, Landfill Location, Landfill Compliance, and Alternative Equivalent Measures);
    - C. With responses separated by tabs for each scoring question in Section 5 (example: Section 5, **I. Matrix Item 1b**); and

- D. By delivery service to the following mailing address: City of Austin; Austin Resource Recovery – Finance; P.O. Box 1088; Austin, TX 78767.

#### **4.0 LANDFILL OPERATOR QUESTIONS**

- 4.1 To be considered for eligibility, the Landfill Operator must provide the information requested below in their response to this RFI.

**4.1.1 Basic Information**

The Landfill Operator must provide their:

- A. Company Name;
- B. Company Physical Address;
- C. Contact Name and Title;
- D. Contact Phone; and
- E. Contact Email Address.

**4.1.2 Company Overview**

The Landfill Operator must provide a description of their company's landfill operations history and include a description of the relevant Type I and/or Type IV services provided.

**4.1.3 Landfill Location**

The Landfill Operator must provide distance of location of landfill operations to Austin City Hall located at 301 W 2nd St, Austin, TX 78701.

**4.1.4 Landfill Compliance**

The Landfill Operator must list any current unsatisfactory compliance rating from the TCEQ or similar out-of-state agency, or an enforcement order, court order, consent decree, or criminal conviction related to EPA or TCEQ violations, or placement on the EPA's NPL.

**4.1.5 Alternative Equivalent Measures**

The Landfill Operator must provide a description of landfill operations subjects that may require the ARR Director to determine alternative equivalent measures. These may include an out-of-state landfill accountable to another state's landfill regulations or new landfills with no compliance history.

#### **5.0 LANDFILL MATRIX CRITERIA**

To be considered for eligibility for Type I and/or Type IV services, the Landfill Operator must provide the information requested below in their response to this RFI.

**5.1 Scoring Questions for Type I Services**

Please reference the Matrix for criteria, description, measure, and points awarded. Please include citations for all data submitted. The Landfill Operator must:

- A. **Matrix Item 1a:** Provide information on the most recent landfill gas emissions and total waste in place reported in the US EPA's Facility Level Information on Greenhouse Gases Tool ("[US EPA FLIGHT](#)") using the smaller value derived from using HH6 or HH8 calculation methods. (Reference *Notes* in the Matrix for more information.)
- B. **Matrix Item 1b:** Provide information on the landfill's use of carbon-free fuels, power, or energy for its landfill fleet or other uses separate from on-site use of landfill gas ("LFG"). This includes

but is not limited to solar, wind, hydrogen, or electric technology. The use of electric vehicles and carbon-free energy is preferred over carbon-based energy sources.

- C. **Matrix Item 1c:** Provide information on the current uses of LFG. This does not include waste-to-energy technologies, except for normally occurring landfill gas-to-energy, not including bioreaction. For example, the Landfill Operator could use LFG to produce electricity, fuel vehicles, or space heating, or it could be fed into a natural gas line for off-site use. (Reference *Notes* in the Matrix for more information.)
- D. **Matrix Item 2a:** Provide the landfill's environmental [Compliance History](#) for the most recent 5-year rating period (based on records at the TCEQ or other appropriate environmental regulatory agency). (Reference *Notes* in the Matrix for more information.)
- E. **Matrix Item 2b:** Provide a detailed list of activities that promote zero waste and waste diversion. (Reference *Measure* in the Matrix for this item for a list of scored categories.)
- F. **Matrix Item 3a:** Provide information on the injury and illness incident rate for the past five years. (Reference *Notes* in the Matrix for more information.)
- G. **Matrix Item 3b:** Provide OSHA's most recent [Severe Injury Reports](#) and Occupational Safety and Health Administration's ("OSHA") [Fatality Inspection Data](#) for the past five years. (Reference *Notes* in the Matrix for more information.)
- H. **Matrix Item 4a:** Provide documentation on affirmative hiring and diversity advancement policies.
- I. **Matrix Item 4b:** Provide documentation on the number and percentage of all full-time, non-exempt landfill employees earning at least the current living wage and receiving health care protection as set by the City for its contracts. (Reference *Notes* in the Matrix for more information.)

## 5.2 Landfill Criteria Matrix: Scoring Questions for Type IV Services

Please reference Matrix for criteria, description, measure, and points awarded. Please include citations for all data submitted. The Landfill Operator must:

- A. **Matrix Item 1b:** Provide information on the landfill's use of carbon-free fuels, power, or energy for its landfill fleet or other uses separate from on-site use of LFG. This includes but is not limited to solar, wind, hydrogen, or electric technology. The use of electric vehicles and carbon-free energy is preferred over carbon-based energy sources.
- B. **Matrix Item 2a:** Provide the landfill's environmental [Compliance History](#) for the most recent 5-year rating period (based on records at the TCEQ or other appropriate environmental regulatory agency). (Reference *Notes* in the Matrix for more information.)
- C. **Matrix Item 2b:** Provide a detailed list of activities that promote zero waste and waste diversion. (Reference *Measure* in the Matrix for this item for a list of scored categories.)
- D. **Matrix Item 3a:** Provide information on the injury and illness incident rate for the past five years. (Reference *Notes* in the Matrix for more information.)

E. **Matrix Item 3b:** Provide OSHA's most recent [Severe Injury Reports](#) and OSHA's [Fatality Inspection Data](#) for the past five years. (Reference *Notes* in the Matrix for more information.)

F. **Matrix Item 4a:** Provide documentation on affirmative hiring and diversity advancement policies.

G. **Matrix Item 4b:** Provide documentation on the number and percentage of all full-time, non-exempt landfill employees earning at least the current living wage and receiving health care protection as set by the City for its contracts. (Reference *Notes* in the Matrix for more information.)

## 6.0 COMMENTS, QUESTIONS, AND SUGGESTIONS FOR THE CITY

6.1 Please provide any additional comments, questions, or suggestions that would be helpful in maintaining, improving, distributing, and scoring the Matrix.

6.2 The City reserves the right to alter or completely abandon this landfill eligibility process at any time in the future for any reason as deemed to be in the best interest of the City.

# VERSION 2



## Staff Landfill Criteria (Type I)

Objective?	Criteria		Description & Measure	Pts
	<b>1 Carbon Footprint</b>		<b>INTENT:</b> Minimize the generation of landfill gas and beneficially use what is produced in ways that replace carbon-based energy sources.	<b>25</b>
Y	1a	Estimated landfill gas collection emissions	<p><b>Description:</b> The Landfill Operator shall provide information on the most recent landfill gas emissions and total waste in place reported in the US EPA's Facility Level Information on Greenhouse Gases Tool (<a href="#">US EPA FLIGHT</a>) using the smaller value derived from using HH6 or HH8 calculation methods. (See Notes, below.)</p> <p><b>Measure:</b> For purposes of this criterion, "normalized emissions" are equal to a landfill's annual Landfill Gas Emissions (mTCO2e) divided by its total Waste In Place (metric tons), using the smaller value derived from using HH6 and HH8 calculation methods. The normalized emissions will be compared to all the active landfills listed by the Texas Commission on Environmental Quality (TCEQ) in the Alamo Area Council of Governments, Capital Area Council of Governments, Houston-Galveston Area Council, and North Central Texas Council of Governments and group the landfills. The Landfill Operator will receive all of the available points if its landfill's normalized emissions are in the lowest third of the normalized emissions and half of the available points if its normalized emissions are in the middle third. An operator of a new landfill that is not required to report to US EPA FLIGHT will receive full credit but only in its first two years of operation.</p>	18
Y	1b	Onsite use of carbon-free energy	<p><b>Description:</b> The Landfill Operator shall provide information on its use of carbon-free fuels, power, or energy for its landfill fleet or other uses separate from a landfill's onsite use of landfill gas. This includes but is not limited to solar, wind, hydrogen, or electric technology. Use of electric vehicles and carbon-free energy sources is preferred over carbon-based energy sources.</p> <p><b>Measure:</b> The Landfill Operator will receive full credit for any carbon-free energy use at the landfill.</p>	5
Y	1c	Landfill gas beneficial use	<p><b>Description:</b> The Landfill Operator shall provide information on its current uses of its landfill gas. This does not include waste-to-energy technologies, except for normally occurring landfill gas-to-energy, not including bioreaction. For example, the Landfill Operator could use landfill gas to produce electricity, fuel vehicles, or generate space heating, or the landfill gas could be fed into a natural gas line for offsite use.</p> <p><b>Measure:</b> The Landfill Operator will receive full credit for landfill gas beneficial use at the landfill. An operator of a new landfill that is not required to report to US EPA FLIGHT will receive full credit but only in its first two years of operation.</p>	2
	<b>2 Environmental, Zero Waste, and Sustainability</b>		<b>INTENT:</b> Minimize negative impacts to the environment and implement positive ones.	<b>25</b>
Y	2a	Permit compliance	<p><b>Description:</b> The Landfill Operator shall provide the landfill's environmental <a href="#">Compliance History</a> for the most recent five-year rating period (based on records at the Texas Commission on Environmental Quality or other appropriate environmental regulatory agency). (See Notes, below.)</p> <p><b>Measure:</b> The Landfill Operator will receive full credit for achieving a High Compliance rating for the most recent five-year rating period. The landfill will receive no credit for a Satisfactory.</p>	10



## VERSION 2

Y	2b	Zero Waste / beneficial waste diversion	<b>Description:</b> The Landfill Operator shall submit a detailed list of activities that promote zero waste and waste diversion.	15
			<b>Measure:</b> The Landfill Operator will receive three points for each of up to five of the following onsite activities that reduce annual disposal of at least one hundred tons of reusable, recyclable, or compostable materials or products consistent with the Austin Resource Recovery Master Plan. An operator of a new landfill will receive credit for planned onsite activities with a waiver of annual disposal tonnage reduction, but only in its first year of operation: 1. Large-scale drop-off or buyback of source-separated products or materials for reuse or recycling 2. Large-scale grinding of landscape debris or wood scrap for non-fuel uses 3. Large-scale composting of organic materials 4. Reclamation of materials from processing mixed construction or demolition debris for reuse or recycling 5. Reclamation of products or materials for reuse or recycling 6. Other activity diverting significant quantities for reuse, recycling, mulch, or composting	
3 Operational Safety			INTENT: Minimize the safety risk to the landfill's employees and others onsite.	25
Y	3a	Safety record	<b>Description:</b> The Landfill Operator shall provide information on its injury and illness incident rate for the past five years. The City will review the most recent Bureau of Labor Statistics (BLS) annual report of Occupational Injury and Illness Incidence Rates by industry. (See Notes, below.)	10
			<b>Measure:</b> The Landfill Operator will receive full credit if its most recent incident rate is less than or equal to the total incidence rate for solid waste landfills nationwide in the most recent BLS report.	
Y	3b	Onsite fatalities or catastrophes	<b>Description:</b> The Landfill Operator shall provide OSHA's most recent <a href="#">Severe Injury Reports</a> and OSHA's <a href="#">Fatality Inspection Data</a> for the past five years. (See Notes, below.)	15
			<b>Measure:</b> The Landfill Operator will receive full credit for having no severe injuries, fatalities, or catastrophes within the past five years.	
4 Community Impact and Social Equity			INTENT: Support and minimize harm to potentially impacted neighboring communities and provide equitable compensation and advancement opportunities.	25
Y	4a	Workforce diversity policy	<b>Description:</b> The Landfill Operator shall provide documentation of affirmative hiring and diversity advancement policies.	15
			<b>Measure:</b> The Landfill Operator will receive all available points for providing documentation of affirmative hiring (including a Fair Chance hiring policy) and diversity advancement policies within the landfill operations.	
Y	4b	Living wage and benefits	<b>Description:</b> The Landfill Operator shall provide documentation on the number and percentage of all its full-time, non-exempt landfill employees earning at least the current living wage as set by the City for its contracts. (See Notes, below.)	10
			<b>Measure:</b> The Landfill Operator will receive credit if all of its full-time, non-exempt employees earn at least the current living wage and receive health care protection as set by the City for its contracts.	

### NOTES:

**Criteria 1a.** The Facility Level Information on Greenhouse Gases Tool (US EPA FLIGHT [ghgdata.epa.gov/ghgp/main.do](https://ghgdata.epa.gov/ghgp/main.do)) provides access to greenhouse gas data reported to EPA by large emitters, facilities that inject CO2 underground, and suppliers of products that result in GHG emissions when used in the United States. In general, facilities that directly emit 25,000 metric tons of carbon dioxide equivalent or more per year are required to submit annual reports to EPA.

**Criteria 2a.** TCEQ determines a compliance rating for each facility annually based on inspections and complaint investigations. Ratings are maintained on a five-year rolling schedule and are classified as High, Satisfactory, or Unsatisfactory with a numerical rating that fits into each of these compliance tiers. See [www.tceq.texas.gov/compliance/enforcement/compliance-history](https://www.tceq.texas.gov/compliance/enforcement/compliance-history).

**Criteria 3a.** See the nonfatal injury and illness rates by industry published by the Bureau of Labor Statistics at [www.bls.gov/iif](https://www.bls.gov/iif) for private industry solid waste landfills (NAICS 562212). Nationally, solid waste landfills reported an incidence rate for nonfatal occupational injuries and illnesses of 4.9 in 2016.

**Criteria 3b.** See OSHA's [Severe Injury Reports](https://www.osha.gov/severeinjury/index.html) at [www.osha.gov/severeinjury/index.html](https://www.osha.gov/severeinjury/index.html) and OSHA's [Fatality Inspection Data](https://www.osha.gov/dep/fatcat/dep_fatcat.html) at [www.osha.gov/dep/fatcat/dep\\_fatcat.html](https://www.osha.gov/dep/fatcat/dep_fatcat.html).

**Criteria 4b.** The Austin City Council established a Living Wage for certain contractors by adopting Resolution No. 20160324-020 ([www.austintexas.gov/edims/document.cfm?id=250908](https://www.austintexas.gov/edims/document.cfm?id=250908)). See the [Living Wage](#) for contracts executed during the City's current fiscal year per hour at [www.austintexas.gov/faq/what-citys-living-wage](https://www.austintexas.gov/faq/what-citys-living-wage).





# Staff Landfill Criteria (Type IV)

Objective?	Criteria		Description & Measure	Pts
	<b>1 Carbon Footprint</b>		<b>INTENT:</b> Minimize the generation of landfill gas and beneficially use what is produced in ways that replace carbon-based energy sources.	<b>5</b>
Y	1b	Onsite use of carbon-free energy	<p><b>Description:</b> The Landfill Operator shall provide information on its use of carbon-free fuels, power, or energy for its landfill fleet or other uses separate from a landfill's onsite use of landfill gas. This includes but is not limited to solar, wind, hydrogen, or electric technology. Use of electric vehicles and carbon-free energy sources is preferred over carbon-based energy sources.</p> <p><b>Measure:</b> The Landfill Operator will receive full credit for any carbon-free energy use at the landfill.</p>	5
	<b>2 Environmental, Zero Waste, and Sustainability</b>		<b>INTENT:</b> Minimize negative impacts to the environment and implement positive ones.	<b>25</b>
Y	2a	Permit compliance	<p><b>Description:</b> The Landfill Operator shall provide the landfill's environmental <a href="#">Compliance History</a> for the most recent five-year rating period based on records at the Texas Commission on Environmental Quality or other appropriate environmental regulatory agency. (See Notes, below.)</p> <p><b>Measure:</b> The Landfill Operator will receive full credit for achieving a High Compliance rating for the most recent five-year rating period. The landfill will receive no credit for a Satisfactory.</p>	10
Y	2b	Zero Waste / beneficial waste diversion	<p><b>Description:</b> The Landfill Operator shall submit a detailed list of activities that promote zero waste and waste diversion.</p> <p><b>Measure:</b> The Landfill Operator will receive three points for each of up to five of the following onsite activities that reduce annual disposal of at least one hundred tons of reusable, recyclable, or compostable materials or products consistent with the Austin Resource Recovery Master Plan. An operator of a new landfill will receive credit for planned onsite activities with a waiver of annual disposal tonnage reduction, but only in its first year of operation:</p> <ol style="list-style-type: none"> <li>1. Large-scale drop-off or buyback of source-separated products or materials for reuse or recycling</li> <li>2. Large-scale grinding of landscape debris or wood scrap for non-fuel uses</li> <li>3. Large-scale composting of organic materials</li> <li>4. Reclamation of materials from processing mixed construction or demolition debris for recycling</li> <li>5. Reclamation of products or materials for reuse or recycling</li> <li>6. Other activity diverting significant quantities for reuse, recycling, mulch, or composting</li> </ol>	15
	<b>3 Operational Safety</b>		<b>INTENT:</b> Minimize the safety risk to the landfill's employees and others onsite.	<b>25</b>
Y	3a	Safety record	<p><b>Description:</b> The Landfill Operator shall provide information on its injury and illness incident rate for the past five years. The City will review the most recent Bureau of Labor Statistics (BLS) annual report of Occupational Injury and Illness Incidence Rates by industry. (See Notes, below.)</p> <p><b>Measure:</b> The Landfill Operator will receive full credit if its most recent incident rate is less than or equal to the total incidence rate for solid waste landfills nationwide in the most recent BLS report.</p>	10

## VERSION 2

Y	3b	Onsite fatalities or catastrophes	<b>Description:</b> The Landfill Operator shall provide OSHA’s most recent <a href="#">Severe Injury Reports</a> and OSHA’s <a href="#">Fatality Inspection Data</a> for the past five years. (See Notes, below.)	15
			<b>Measure:</b> The Landfill Operator will receive full credit for having no severe injuries, fatalities, or catastrophes for the past five years.	
4 Community Impact and Social Equity			<b>INTENT:</b> Support and minimize harm to potentially impacted neighboring communities and provide equitable compensation and advancement opportunities.	25
Y	4a	Workforce diversity policy	<b>Description:</b> The Landfill Operator shall provide documentation of affirmative hiring and diversity advancement policies.	15
			<b>Measure:</b> The Landfill Operator will receive all available points for providing documentation of affirmative hiring (including a Fair Chance hiring policy) and diversity advancement policies within the landfill operations.	
Y	4b	Living wage and benefits	<b>Description:</b> The Landfill Operator shall provide documentation on the number and percentage of all its full-time, non-exempt landfill employees earning at least the current living wage as set by the City for its contracts. (See Notes, below.)	10
			<b>Measure:</b> The Landfill Operator will receive credit if all of its full-time, non-exempt employees earn at least the current living wage and receive health care protection as set by the City for its contracts.	

### NOTES:

**Criteria 2a.** TCEQ determines a compliance rating for each facility annually based on inspections and complaint investigations. Ratings are maintained on a five-year rolling schedule and are classified as High, Satisfactory, or Unsatisfactory with a numerical rating that fits into each of these compliance tiers. See [www.tceq.texas.gov/compliance/enforcement/compliance-history](http://www.tceq.texas.gov/compliance/enforcement/compliance-history).

**Criteria 3a.** See the nonfatal injury and illness rates by industry published by the Bureau of Labor Statistics at [www.bls.gov/iif](http://www.bls.gov/iif) for private industry solid waste landfills (NAICS 562212). Nationally, solid waste landfills reported an incidence rate for nonfatal occupational injuries and illnesses of 4.9 in 2016.

**Criteria 3b.** See OSHA's [Severe Injury Reports](#) at [www.osha.gov/severeinjury/index.html](http://www.osha.gov/severeinjury/index.html) and OSHA's [Fatality Inspection Data](#) at [www.osha.gov/dep/fatcat/dep\\_fatcat.html](http://www.osha.gov/dep/fatcat/dep_fatcat.html).

**Criteria 4b.** The Austin City Council established a Living Wage for certain contractors by adopting Resolution No. 20160324-020 ([www.austintexas.gov/edims/document.cfm?id=250908](http://www.austintexas.gov/edims/document.cfm?id=250908)). See the [Living Wage](#) for contracts executed during the City's current fiscal year per hour at [www.austintexas.gov/faq/what-citys-living-wage](http://www.austintexas.gov/faq/what-citys-living-wage).

**4.1.1 – Basic Information**

A. Company Name	Texas Disposal Systems Landfill, Inc.
B. Company Physical Address	3016 FM 1327 Creedmoor, Texas 78610
C. Contact Name and Title	Bob Gregory President
D. Contact Phone Number	(512) 421-1300 – Office
E. Contact Email Address	bgregory@texasdisposal.com

#### **4.1.2 – Company Overview**

Founded in 1988 by Bob and Jim Gregory, Texas Disposal Systems Landfill, Inc. (TDSL) represents a leading solid waste services and resource management organization that successfully assists businesses, institutions, communities and municipalities with responsible and economical processing, recycling, composting and/or disposal of their waste materials.

TDSL designed, permitted and developed the first fully integrated municipal solid waste landfill, recycling and composting facility in the state of Texas. In September 1990, Texas Disposal Systems Landfill, Inc. was granted Permit #2123 from the Texas Department of Health, now the Texas Commission on Environmental Quality (TCEQ). TDSL's 2,000+ acre flagship facility located in southeastern Travis County opened to the public on February 1, 1991 and features:

- 732-acre TDSL owned and operated Type I municipal solid waste landfill, composting and recycling operations – TCEQ Permit #2123, which receives 100% of the single family residences' curbside solid waste collected by the City of Austin under a 30 year contract executed in May 2000, as well as materials from many others;
- 107,000 sq. ft. Materials Recovery Facility (MRF) for commercial and residential recyclables, receiving recyclables from dozens of central Texas municipalities and approximately 45% of the recyclables collected by the City of Austin under a 20 year contract executed in July 2011;
- 30-acre organic materials processing, composting and soil blending operation for production of 40+ compost, mulch and soil amendment products;
- Citizen's waste and recyclables drop-off and re-useable product resale center;
- Construction and demolition waste material sorting and recycling of aggregates, fibers, metals, plastics and other materials;
- Scrap concrete and aggregate recycling operations for production of recycled products used in various civil applications;
- Ferrous and nonferrous scrap metal processing and resident artist centers;
- 200+ acre Eco-Industrial Park;
- Garden-Ville product retail sales outlet (sixth retail sales location in central Texas);
- Precast concrete operation for production of eco-friendly blocks, pavers and decorative building products;
- Corporate offices; Fleet and industrial equipment maintenance; Ranch/agricultural operations;
- Tree and Bamboo farms featuring 60,000+ individual plants;
- Exotic game ranch featuring over 115 different animal species onsite and an educational and entertainment pavilion where more than 2,200 events have occurred since 1999 raising more than \$24,000,000 for nonprofit organizations hosted by TDSL;
- West Bay Multiport monitor well installed by Barton Springs Edwards Aquifer Conservation District to study and monitor the saline portion of Edwards Aquifer beneath the site as an alternative regional desalinated water supply powered with electricity generated from landfill gas;
- Planned landfill gas-to-energy plant; wastewater treatment plant; Edwards Aquifer brackish water desalination plant; and
- Municipal Utility District in Creedmoor's jurisdiction approved in 2007 by the Texas Legislature.

For 28 years, TDSL has consistently operated its southeastern Travis County facility in a manner that does not adversely affect its neighbors' health, property values or their quality of life. While some other area operating facilities have received excessive numbers of violations of permit and state operating regulations and huge fines for permit and regulatory violations, the TDSL permitted facility has received a total of four minor permit violations and no fines, to date. In fact, TDSL has not received a permit violation

in over nineteen years. We have successfully demonstrated that a large scale regional municipal solid waste landfill, recycling and composting operation can be relied upon by residents, businesses, institutions and municipalities throughout central Texas under long-term contracts, and can be operated efficiently and competitively, while economically diverting hundreds of thousands of tons of materials away from landfill disposal on an annual basis. We are proud that no environmental group has ever opposed our permit, our facility or our operations. Indeed, we believe the TDSL sustainable business model of responsible facility management, resource management, community support and environmental conservation has elevated the industry standard both locally and nationally. In fact, the Solid Waste Association of North America awarded us the Gold Award for excellence in landfill management, recognizing the TDSL landfill as the best managed landfill in North America.

**4.1.3 – Landfill Location**

The 2,000+ acre Texas Disposal Systems Landfill, Inc. (TDSL) recycling and composting facility, the associated Eco-Industrial Park and agricultural buffer zone are located in southeastern Travis County at 3016 FM 1327, Creedmoor, Texas 78610. The fully integrated operations are conveniently located 15.2 driving miles (10 miles as the crow flies) from Austin City Hall, and easily accessed via Interstate 35, State Highway 183 and State Highways 130 and 45 SE/SW. Although the facility is open to the public Monday through Saturday 7:00am to 7:00pm or dark (whichever comes first), TDSL's permit allows it and haulers with contracts to access the facility twenty four hours per day, from Sunday night at midnight to 7:00 pm or dark Saturday night, thereby allowing TDSL and its customers with contracts to efficiently collect and transport significant volumes of solid waste, recyclables and organics to TDSL during off-peak hours with less traffic congestion.

#### **4.1.4 – Landfill Compliance**

The 2,000+ acre Texas Disposal Systems Landfill, Inc. (TDSL), recycling and composting facility, associated Eco-Industrial Park and agricultural buffer zone boasts an exemplary state and federal regulatory compliance record, and has been publically accepted by surrounding neighbors and property owners, and supported by environmental organizations and policy makers at the local, state and national levels. Since the inception of TCEQ's regulatory and environmental compliance rating program, the TDSL landfill, recycling and composting facility has maintained the highest possible compliance classification rating, and currently maintains a "high" compliance classification rating.

Despite its history of maintaining a high compliance classification compliance rating, TDSL strongly believes these ratings alone are insufficient to determine whether a landfill facility is truly minimizing negative impacts to the environment and to surrounding neighbors and property owners.

The fact that all of the area landfills currently maintain a high compliance classification rating, including the historically problematic Waste Management-Austin Community Landfill in northeast Austin, supports TDSL's position about the inadequacy of relying on these TCEQ compliance ratings over the previous five years. For example, the WM-ACL has been a target for the EPA's National Priorities List, and nevertheless the City's Landfill Criteria Matrix fails to account for the risk to the City for future cleanup costs or the risks that City support will promote WM-ACL expansion. Further, a single permit could cause a landfill operator to lose their "high" compliance rating for a year, and such a loss for a year would continue to cause that landfill operator from maintaining a five continuous year record of "high" rating for the next five years.

#### **4.1.5 – Alternative Equivalent Measures**

This particular criteria does not apply to the 2,000+ acre Texas Disposal Systems Landfill, Inc. (TDSL), recycling and composting facility, associated Eco-Industrial Park and agricultural buffer zone, as it is an existing operated facility physically located within the state of Texas, and falls under the jurisdiction of the Texas Commission on Environmental Quality.



### **5.1 Type I Landfill Matrix Criteria**

While TDSL does not object to providing the requested information, TDSL firmly believes that this COA staff imposed Landfill Criteria Matrix (LCM) is a fatally flawed document and process, which explicitly ignores the instructions of the City Council to staff and the requests of stakeholders and the extensive well-documented stakeholder meetings. TDSL believes it is a clear attempt by COA staff to change longstanding City policy by unilaterally imposing an arbitrary and capricious Landfill Criteria Matrix designed to qualify all landfills in the Austin area as acceptable, and give landfill development projects previously rejected by the Austin City Council the highest scores while giving the landfill previously supported by the City Council low scores. The staff-imposed Landfill Criteria Matrix appears to be designed to prevent the City Council from being able to oppose the imminent expansion plans of problematic landfill facilities and to prevent the City from finding those landfills to be an unacceptable risk to the City and an inappropriate landfill to earn the Council's support for their continued operation and expansion. It would provide a landfill operator the basis to seek damages from the City for opposing its expansion, if the landfill had successfully met the standard of the Landfill Criteria Matrix.

TDSL objects to the staff's refusal to develop a Landfill Criteria Matrix that is consistent with previous Council priorities, as recommended by the Council's Solid Waste Management Policy Working Group (SWMPWG). TDSL objects to the staff's refusal to consider and evaluate (i) the greater Austin Community Impact, (ii) the proven business model of facility operations and landfill diversion practices, and (iii) the existing levels of hazardous materials buried in landfills as recommended by the Council's SWMPWG. TDSL objects to staff's incomprehensible determination that industrial waste, hazardous waste and construction and demolition waste are not subject to landfill scoring. TDSL objects to staff's exemption from any Landfill Criteria Matrix restrictions on the residuals disposal from processing City controlled recyclables and compostable material. TDSL strongly objects to the staff's ignoring City Council directives and the Zero Waste Advisory Commission (ZWAC) recommendations to Council related to the Landfill Criteria Matrix, and to the staff's refusal to seek Council approval prior to implementing this Landfill Criteria Matrix.

Accordingly, TDSL submits this response to staff's Request For Information, while at the same time protesting the arbitrary and capricious Landfill Criteria Matrix unilaterally conceived and imposed by City staff to effectively render this and future City Councils incapable of opposing the permitting, opening, operation and expansion of landfills in the vicinity of Austin, and effectively incapable of opposing any landfill from receiving waste controlled by the City, as long as it is scored within twenty five points of the highest scoring landfill applying to receive City controlled waste. TDSL is in no way validating the potential results of the staff's scoring, and in no way waiving our right to challenge any attempts by staff to utilize the results of this Request For Information in a manner that is inconsistent with TDS contracts, City authorizations, any State or Federal law, or any use beyond the provision of information.

## Carbon Footprint

**Intent: Minimize the generation of Landfill gas and beneficially use what is produced in ways that replace carbon-based energy sources.**

### **5.1 A Estimated landfill gas collection emissions**

**18 points**

This staff imposed criteria in no way recognizes or rewards facilities for “minimizing the generation of landfill gas”. Staff has created a landfill gas emissions evaluation tool, based on a flawed EPA model, which further compounds its inaccuracy by rewarding very young and old landfills by inexplicably dividing modeled emissions by an operator’s estimation of total waste in place and even awarding full points to a new landfill over the first two years of its operation and, we assume for scoring bids prior to the opening of the landfill. This oddly configured criterion manages to reward facilities with documented histories of major landfill gas emissions violations (WM-ACL and Republic-Sunset Farms Landfill), while penalizing facilities that have successfully managed the daily filling and the continuous use of clay daily cover soils in the active working face area of their dry entombment landfill and with a long and successful history of controlling landfill gas production and emissions and community acceptance (the TDSL landfill).

The US EPA Flight result does not provide any useful information about “minimizing the generation of landfill gas” emissions because the amount determined by the US EPA formula is an overly conservative (high) estimate rather than a true representation of actual landfill emissions. Since landfill emissions are fugitive and occur as a result of several variables, there is no known method to measure or calculate actual uncontrolled landfill emissions. Therefore, an expert should be required to analyze the design and operation of a landfill to evaluate the effectiveness of proven measures a landfill can utilize to minimize emissions. The appropriate measures to consider when evaluating whether a landfill is taking steps to truly minimize the generation of landfill gas include:

- Is the landfill liner design for the entire landfill facility constructed to minimize groundwater and air infiltration and to contain landfill gas and prevent a release other than through a gas collection system?
- What type and in what thickness and how much daily and intermediate cover is applied regularly on the landfill?
- What steps does the landfill operator take to ensure that the integrity of daily, intermediate, and final cover is not eroded to the point of allowing the intake of water and air and the release of methane and odor (i.e. cracks, fissures, holes, additional layering, etc.)?
- Is the size of the active working face of the landfill with exposed waste kept to an area as small as reasonably possible, particularly during rainfall events?
- Does the landfill fill sequence generally place waste from higher elevation to lower on the landfill floor to minimize storm water infiltration?
- Does the location and design of the landfill divert storm water runoff away from the active working face? Are berms used for this purpose? Is the bottom slope positioned to divert storm water runoff away from the exposed waste fill area?
- Does the landfill try to achieve “dry” entombment by diverting high moisture content waste that does not need to be landfilled, (i.e. yard waste, bio-solids sludge, and food wastes) and what does the landfill operator do with that diverted waste (i.e. composting, recycling, etc.)?
- How much leachate is produced annually by the landfill?
- Is leachate recirculated within the landfill?
- Is the odor minimal at and in the areas surrounding the landfill?

- Does the landfill have a landfill gas collection and treatment system, and how many wells are in place relative to the number of acres of waste in place over enough time to require collection of the gas being generated? (Note: landfill gas collection systems do not “minimize the generation of landfill gas”, but rather they capture and destroy or use the gas for another purpose rather than emit it to the atmosphere. Properly sited and designed landfills with a goal to minimize the generation of landfill gas: minimize the intake of storm water runoff and groundwater inflow; minimize the acceptance of high moisture content waste; utilize adequate landfill liners and clay soils for daily, intermediate and final landfill cover; and utilize dry entombment methods of landfill management.)
- Does the landfill operator monitor for groundwater intake and releases as well as landfill gas offsite releases around the entire permit boundary, so it can respond to and eliminate a release?

The Austin Resource Recovery department currently does not have the expertise to evaluate the above listed factors in order to determine if landfill gas emissions are being minimized; however, the City Council could authorize such a study by a third party expert. The use of US EPA Flight numbers as a substitute for expert analysis yields a misleading result because there is no proven relationship between the US EPA formula number and actual landfill emissions.

The following are issues with the Landfill Criteria Matrix approach of using “normalized emissions” derived from US EPA FLIGHT reported emissions divided by total waste in place:

- The EPA model allows for the use of two different methods (Equation HH-6 and HH-8) of emissions calculation to determine the reported amount, which leads to inherent inconsistency between the results reported by landfills as the two methods are vastly different.
  - HH-6 uses waste in place numbers to estimate emissions generated by the landfill using EPA developed algorithms and subtracts out the amount recorded as captured by a gas collection device (if present).
    - Most landfills (all but two active landfills in Texas Councils Of Governments) use estimated waste in place numbers for many of their years of operation which instantly makes the results suspect at best.
    - The algorithms were developed to be conservative and overestimate emissions, and do not consider many of the measures a landfill may take that actually reduce emissions (discussed in detail above).
    - Excerpt from EPA’s AP-42 – Municipal Solid Waste Landfills which use similar methodology: *There is a significant level of uncertainty in Equation 2 and its recommended default values for  $k$  and  $L_0$ . The recommended defaults  $k$  and  $L_0$  for conventional landfills, based upon the best fit to 40 different landfills, yielded predicted  $CH_4$  emissions that ranged from ~30 to 400% of measured values and had a relative standard deviation of 0.73 (Table 2-2). The default values for wet landfills were based on a more limited set of data and are expected to contain even greater uncertainty.*
  - HH-8 uses the amount captured by a gas collection device (if present) and back calculates the amount of emissions that would have been lost to the atmosphere using an estimated gas capture efficiency which is determined using gas collection coverage estimates provided by the user (there is significant assumption that goes into these inputs as there are not standards to use, so it is safe to assume that no two landfills would have made the assumptions the same way).
  - Both equations use the WIP numbers and gas collection coverage estimates to calculate a methane flux rate, which is then used to choose an oxidation factor. As mentioned in

previous bullets, both of those inputs do not reflect reality and allow a wide range discretion in deciding which assumptions are to be used for the inputs.

- Neither method accurately reflects whether a landfill is actually taking steps to “minimize the generation of landfill gas.” As is the case with most emissions calculation methodologies, these have been developed to provide a conservatively high estimate.

**That said, TDSL’S most recent reported annual emissions are 23,224 mt CO<sub>2</sub>e, and the total waste in place reported is 13,314,224 mt. Therefore, TDSL’s supposedly “normalized” annual emissions are .0017443 mt CO<sub>2</sub>e.**

Data Year 2017 ▼

**TEXAS DISPOSAL SYSTEMS  
LANDFILL**3016 FM 1327  
BUDA, TX, 78610Latitude: 30° 05.92' N  
Longitude: 97° 45.15' WGHGRP Id: 1005347  
FRS Id: 110034252877  
NAICS Code: 562212[View reported data](#)[Download reported data \(XML\)](#)

## Facility Information

## Facility Emissions by Year

Total Facility Emissions in metric tons CO<sub>2</sub>  
equivalent (mt CO<sub>2</sub>e) (AR4 GWPs, excluding  
Biogenic CO<sub>2</sub>) 23,224

Emissions by Gas in mt CO<sub>2</sub>e (AR4 GWPs)

Methane (CH<sub>4</sub>) 23,224

Emissions by Source/Process in mt CO<sub>2</sub>e (AR4 GWPs,  
excluding Biogenic CO<sub>2</sub>)

Municipal Landfills 23,224

Landfill emissions estimated from  
modeled methane generation and  
other factors 474,809

Landfill emissions estimated from  
methane recovery, destruction  
and other factors 23,224

Landfills with active landfill gas collection systems  
must calculate and report GHG emissions in two ways.  
The results of each are displayed here. Only one of  
these numbers (in most cases the larger value) is used  
as the emissions from the landfill. [Learn more about  
measuring emissions at landfills.](#)

## Information on Municipal Landfills

Is landfill open? Y  
Estimated year of closure (if open) 2035  
Landfill Capacity 28278369  
Does the landfill have an active gas  
collection system? Y  
Capacity of the landfill gas  
collection system (if used) 600

**Carbon Footprint**

**Intent: Minimize the generation of Landfill gas and beneficially use what is produced in ways that replace carbon-based energy sources.**

**5.1 B On-site use of carbon free energy****5 points**

We are not aware of any heavy landfill operations fleet equipment available that utilizes carbon free energy; and, due to the heavy nature of that equipment, there is not likely to be any available in the near future. Further, the effect of allocating 5% of the points to this aspirational criteria only dilutes the overall allocation of points amongst other relevant criteria.

**That said, several of TDSL'S interior roadway automated ingress/egress physical control mechanisms (gates) are powered by 100% solar radiant energy, thus obviating the need for any carbon-based energy source to power said interior roadway ingress/egress physical control mechanisms. TDSL also utilizes outdoor illumination devices in a number of locations such as pathways and material tipping areas that are 100% solar powered. Also, the remainder of our concrete crushing, screening and associated conveying equipment is powered electrically.**

## **Carbon Footprint**

**Intent: Minimize the generation of Landfill gas and beneficially use what is produced in ways that replace carbon-based energy sources.**

### **5.1 C Landfill gas beneficial use**

**2 points**

This criteria gives an unfair advantage to older landfills that have not been successfully operated to minimize the generation of landfill gas and have been purposefully operated to generate large quantities of landfill gas to maximize in-cell waste settlement and compaction and to maximize the revenue gained from captured landfill gas sales. It takes a great deal of waste in place to generate a reliable quantity of landfill gas to produce electricity, supply landfill gas to a pipeline, or some other beneficial use other than flaring. Further, it penalizes a landfill for successfully limiting landfill gas production, when by design, it takes much more time for enough gas to be generated to make beneficial re-use of landfill gas economically feasible. These two approaches represent two very different business models. One maximizes landfill gas production and compresses that gas production over the shortest period of time possible; the other model promotes dry entombment, which minimizes landfill gas production and extends that production of landfill gas over a longer period of time, allowing the landfill operator to better control the generation of landfill gas and much better control the releases of methane gas and landfill odor causing emissions into the atmosphere.

Further, this criteria is inexplicably omitted from the evaluation matrix for “C&D” or Type IV landfill facilities, despite the fact that the only Austin area Type IV landfill recently implemented corrective action for migration of landfill gas outside the waste containment cell.

**That said, TDSL currently flares all of the landfill gas it collects, as we continue to evaluate the amount of landfill gas the newly expanded landfill gas collection system’s additional 60 collection wells will collect and determine when we have sufficient landfill gas generation to justify the addition of a landfill gas to energy plant to produce the electricity needed to power onsite electric motors and to desalinate brackish groundwater to supply potable water to the City of Austin and to others. TDSL is in a stage of its dry entombment landfill development method of filling that has sufficient tonnage of waste in place to justify the installation of a landfill gas collection system, but not enough landfill gas generation to cause a problem for our neighbors and insufficient volumes of gas to justify the installation of a landfill gas to energy facility. The success TDSL has had in minimizing landfill odors and remaining a good neighbor over the past 28 years of operation is testimony to the Community Impact success story of our dry entombment method of landfilling. We believe it would be inappropriate for the staff to impose a Landfill Criteria Matrix that denies TDSL points for not producing enough landfill gas to yet justify a Landfill gas to energy plant, while rewarding other landfills for accelerated landfill gas generation business models.**

**Environmental, Zero Waste, and Sustainability****Intent: Minimize negative impacts to the environment and implement positive ones.****5.1 D Permit Compliance****10 points**

Use of this specific criteria means that the City will rely entirely on the TCEQ's determinations of each landfill's environmental integrity, land use compatibility, groundwater protection, landfill gas migration prevention, odor control, etc., despite the long history of bad operating practices and lack of concern for adverse community impact and despite the City legal department itself vehemently decrying the inadequacy and inaccuracy of such TCEQ determinations respective of the WM-ACL, and despite the TCEQ's permit compliance evaluation only considering the past five years of operations.

Points are only awarded for a High compliance rating by TCEQ. Currently all the landfills in the Austin area have a High compliance rating. However, any landfill could be reduced to a Satisfactory rating, resulting in no points being awarded due to a minor permit violation. These minor violations will cause a landfill to lose these points for the next five years that any violation remains part of the most recent five year compliance history evaluation.

A review of a landfill's TCEQ Compliance History is insufficient to determine whether the landfill is minimizing the negative impacts to the environment and will likely continue to operate in the same manner for the duration of the contract to accept City controlled waste. The most recent five year Compliance History rating should simply be a small piece of the overall analysis to consider. Compliance History calculations are often incorrect because TCEQ staff have not included all required components. A landfill can receive a paperwork violation that reduces the rating from High to Satisfactory resulting in a loss of 10 points under the Landfill Criteria Matrix for five years, yet the violation has no negative impact to the environment. A landfill should not be scored less for non-environmental deductions to the Compliance History rating.

Further, the most recent five year Compliance History rating only includes components related to violations actually identified by TCEQ in an investigation. That is why an independent investigation of the facility is required to verify the landfill is minimizing the impact to the environment. Only a thorough review of the landfill's operating history, waste in place, leachate generation, groundwater and landfill gas migration monitoring system's effectiveness and the monitoring results, the landfill design, construction, operations and records can give a true snapshot of the negative impacts to the environment a landfill has had or may have the potential for in the future.

The City of Austin has conducted such a review in the past. The City of Austin commissioned an engineering firm, Carter & Burgess, to perform a landfill environmental assessment on the Austin Community Landfill, the Sunset Farms Landfill, and the Texas Disposal Systems Landfill. That firm issued a report in 1999. The environmental problems identified at the Waste Management-Austin Community Landfill in the 1999 report still exist today, to our knowledge. To obtain a more accurate analysis of whether a specific landfill is minimizing impacts to the environment the following issues should be considered:

- How is the landfill liner and leachate collection system designed and constructed for all filled and all yet to be filled landfill disposal cells onsite?
- Do any landfill units exist without a constructed landfill liner and leachate collection system, or a certified in-situ landfill liner and leachate collection system?
- Does each landfill unit have a sufficient groundwater and landfill gas monitoring system capable of detecting offsite migration of leachate and landfill gas?



- Have groundwater and landfill gas monitoring reports recorded any historical exceedances?
- Has the storm water permit, inspection reports, and lab results indicated any problems?
- Has documentation related to leachate quantity and quality been studied for discrepancies?
- Is the landfill in compliance with air quality authorizations and have the required records been reviewed for anomalies?
- Are there landfill cells without adequate liners that contain large quantities of waste with hazardous constituents?
- If so, how are the specific hazardous waste constituents being monitored and contained?
- Does the landfill have sufficient clay soils for daily, intermediate and final cover requirements?
- Is enough information available about the local geology to evaluate the natural protective quality of the clay soils?
- Does the landfill have an adequate fire protection plan?
- How is odor management being conducted?
- How are disease carrying vectors being controlled and managed?
- How is the spilled waste and windblown debris being handled?
- What methods are used to control dust and silt releases from the site?
- How many and what types of complaints are recorded concerning the landfill?

These items are crucial in gaining an understanding of whether the landfill is minimizing negative impacts to the environment. The Compliance History will only reveal what the TCEQ has found over the last 5 years and may not include problems that actually exist today.

**That said, TDSL has a HIGH compliance rating from the TCEQ for the most recent 5 year rating period.**

# Compliance History Report



**SITE SEARCH:**  
 please enter search phrase

**SUBJECT INDEX**  
[Air](#) [Water](#) [Waste](#)

[Search TCEQ Data](#)  
[Agency Organization Map](#)

The list below is not sorted.

Site Associated with This Customer					Compliance History for Customer at this Site (If no Site appears in the same row, this is the Customer's overall compliance history.)				
Customer	Name	City or Nearest City	County	TCEQ Region	Related Numbers	Rating	Classification	Date Rated	Date Posted
TEXAS DISPOSAL SYSTEMS LANDFILL INC	TEXAS DISPOSAL SYSTEMS LANDFILL	CREEDMOOR	TRAVIS	REGION 11 - AUSTIN	<ul style="list-style-type: none"> <li>75672</li> <li>TXR152902</li> <li>TXR05N617</li> <li>TXR152902</li> <li>TXR05U151</li> <li>C81244</li> <li>75672</li> <li>C81244</li> <li>TH0787H</li> <li>49327</li> <li>69329</li> </ul>	0	HIGH	09/01/2008	11/15/2018
TEXAS DISPOSAL SYSTEMS INC	TEXAS DISPOSAL SYSTEMS LANDFILL	CREEDMOOR	TRAVIS	REGION 11 - AUSTIN	<ul style="list-style-type: none"> <li>2123</li> <li>2401</li> <li>TXR05N617</li> <li>TXR05U151</li> <li>69329</li> <li>TH0787H</li> <li>4845300366</li> <li>75672</li> <li>69329</li> </ul>	0	UNCLASSIFIED	09/01/2013	11/15/2018
TEXAS DISPOSAL SYSTEMS LANDFILL INC	TEXAS DISPOSAL SYSTEMS LANDFILL	CREEDMOOR	TRAVIS	REGION 11 - AUSTIN	<ul style="list-style-type: none"> <li>75672</li> <li>C81244</li> <li>TH0787H</li> <li>80958</li> <li>69329</li> <li>49327</li> <li>TXR152902</li> <li>2401</li> </ul>	0	HIGH	09/01/2009	11/15/2018
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## Compliance History Report

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**What's a "site"?**

A "site" (sometimes called a "regulated entity") is any person or thing that is of environmental interest to the TCEQ. At a "site", one or more regulatory activities of interest to us occur or have occurred in the past. Some examples of sites are:

- Industrial plants, such as the Exxon Baytown Facility
- Small businesses, such as Texaco Gas Station #200 or Elroy's Dry Cleaning & Laundry
- Public facilities, such as the City of Austin's Hornsby Bend Wastewater Treatment Plant

## Environmental, Zero Waste, and Sustainability

**Intent: Minimize negative impacts to the environment and implement positive ones.**

### **5.1 E Zero Waste/beneficial diversion**

**15 points**

This criteria will award maximum points for minimum effort. A landfill operator would only have to divert one hundred tons per year in five categories to receive the full 15 points. To illustrate the absurdity of this particular criteria, a landfill operator could simply accept 100 tons of source separated brush, pallets and wood waste over each twelve month period at an on-site public drop-off location, and then offer to sell used forklift pallets out of the pile, and grind that same 100 tons of wood waste annually with a leased or owned grinder, and then stack that 100 tons of mulch in a pile where it was dropped off for five to ten years until it composts on its own, and then either spread that composted material on the ground or offer it to customers, and the landfill operator will receive the maximum number of points available under all six categories listed to meet Zero Waste requirements on an annual basis. In a nutshell, this is an excellent example of how the staff has bent over backwards to accommodate all landfills receiving acceptable scores for commitment to Zero Waste, while favoring new landfills, that only have to “plan” to do the minimum in the future to receive full points in their first year, as well as large landfills who have done virtually nothing in the past to support the City’s Zero Waste program. This pales in comparison to the TDSL landfill, composting and recycling operations, which divert hundreds of thousands of tons from landfill disposal each year, but yet one hundred tons of diversion per year, as described above, by another landfill will receive the same number of points. The staff’s Landfill Criteria Matrix proposal is outrageous because it will award equal points regardless of the amount of waste diverted in the past or likely to be diverted in the future, or the scale of the operator’s financial investment in landfill diversion activities. Further, the allocation of only fifteen points to this category seems inappropriate for a City that is guided by a “Zero Waste Master Plan”. These fifteen points are also further diluted by the addition of other criteria not requested by the Council, ZWAC or stakeholders.

**That said, TDSL diverts far more than one hundred tons per year in each of the categories listed by staff in the Landfill Criteria Matrix.** Since opening its landfill, composting and recycling facility in February 1991, TDSL has held a leadership role in responsible resource management and diversion of waste from landfill disposal. TDSL’s commitment to maximum economic diversion of waste materials from landfill disposal has never wavered, and is demonstrated in its ongoing investment of tens of millions of dollars to secure adequate real property, proper agency authorizations, sufficient material flows and providing jobs for hundreds of individuals to divert, process, compost, recycle and market these diverted waste streams. TDSL’s unwavering commitment and significant investments result in successful diversion of hundreds of thousands of tons of materials away from landfill disposal each year. In 2018, the TDSL landfill, recycling and composting operations successfully diverted over 200,000 tons of organic materials, construction and demolition waste, scrap metal, concrete and aggregates, and residential and commercial recyclables. Diversion activities at the TDSL landfill, recycling and composting facility include but are not limited to:

- **A large scale citizen’s waste and recyclables drop-off and reusable product resale center.** This feature of the TDSL facility allows trained personnel to assist customers with offloading their materials while identifying and diverting thousands of tons each year of recyclable, organic and reusable materials away from landfill disposal. Metals, paper, plastics, and organic materials are recovered for recycling or composting, and reusable items are neatly displayed in the TDSL resale center and sold to the public at reasonable prices.

- **A 30+ acre organic materials processing, composting and soil blending operation.** This large-scale grinding and composting operation accepts tens of thousands of tons each year of various types of organic waste materials, including brush and yard trimmings, untreated dimensional lumber and drywall, and pre-consumer and post-consumer food and liquid wastes, which are used to produce over 40+ different types of organic composts, mulches and soil amendment products. These organic products are sold to the public, in bags or bulk volumes, at the on-site Garden-Ville retail outlet operation, and at five other Garden-Ville retail outlet locations in central Texas.
- **A 107,000 sq. ft. materials recovery facility for residential and commercial recyclables.** This operation accepts tens of thousands of tons each year, including approximately 45% of the City of Austin's residential single stream curbside recyclables and recyclables from numerous other municipalities, commercial and institutional generators. These materials – various types of paper and plastic, glass and metals - are then processed and sorted by material type. The materials are packaged and prepared in accordance with industry specifications and marketed to various end users in commercial load quantities. All process residuals are either responsibly held for further processing or disposed of in the TDSL landfill.
- **A construction and demolition waste material sorting and recycling operation.** This operation accepts thousands of tons each year of mixed loads of construction and demolition materials, which are then sorted by material type and recycled onsite at the various co-located operations within the 2,000+ acre TDSL facility. All waste residuals are disposed in the TDSL landfill.
- **A large-scale concrete and aggregate processing and recycling operation.** This operation accepts tens of thousands of tons each year of clean scrap concrete, asphalt, brick, rock, stone and rubble materials. TDSL diverts these highly recyclable materials from the landfill and processes them into various types and sizes of recycled products using an on-site industrial crushing and screening plant. TDSL uses these products to build roads and pads on the site and to sell excess volumes to contractors and the general public for use in various civil applications and projects.
- **A large-scale scrap metal and salvage yard.** This operation accepts thousands of tons each year of scrap ferrous and non-ferrous metals. Materials are sorted by specific type, processed to industry specifications and then marketed in commercial load quantities to various mills. A small portion of the materials received at this operation are diverted to on-site resident artist centers, where they are used to create decorative artwork and sculptures made of recycled metals.

**Operational Safety**

**Intent: Minimize the safety risk to the landfill's employees and others onsite.**

**5.1 F Safety Record****10 points**

This criteria relies on the OSHA 300 report to determine if points are awarded. The report is based on each location an entity operates. This means an entity may have many different activities in addition to the landfill operations that statistically affect the incidence rate for accidents and illness. In other words, a landfill operator that operates numerous separate and co-located recycling and diversion facilities and employs hundreds of people on one or more sites would be at a disadvantage relative to a facility that only employs enough people and equipment to achieve basic landfill disposal services on one site.

**That said, TDSL's past five incident and illness rates were 0.0 (2018), 0.0 (2017), 0.0 (2016), 0.0 (2015), and 0.0 (2014).**



**Operational Safety****Intent: Minimize the safety risk to the landfill's employees and others onsite.****5.1 G Onsite fatalities or catastrophes****15 points**

This criteria is flawed in the same manner as 5.1 F. The reports are based on a legal entity that may do much more than operate a landfill. This means an entity may have many different activities in addition to the landfill and even landfill diversion operations that could be included in the same report as the landfill. Fatalities are rare, as are severe injuries, but the possibility of one occurring on a facility with hundreds of employees working on the site is much more likely to occur than on the site of a simple landfill with no associated operations and a single shift of ten to twenty employees. Yet a single such injury would cause the landfill to lose the points for at least five years under the staff's approach for an injury in an operation on the site that has nothing to do with the landfill operation. This would also ignore the fact that in many instances fatalities or severe injuries that must be reported are not in any way caused by the negligence of the landfill operator.

**That said, TDSL has zero entries in the Severe Injury Reports or in the Fatality Inspection Data within the past five years. Since the Severe Injury Reports and Fatality Inspection Data are many thousands of pages, and no entries pertain to TDSL, we have elected not to provide the Reports or Data themselves.**

## **Community Impact and Social Equity**

**Intent: Support and minimize harm to potentially impacted neighboring communities and provide equitable compensation and advancement opportunities.**

### **5.1 H Workforce Diversity Hiring and Advancement Policy 15 points**

Allocating fifteen out of the one hundred points available for a Type I landfill and fifteen out of eighty points available for a Type IV landfill merely for an operator stating that they now have or that they will have such a policy when their landfill opens serves no other purpose than to give away points to help all landfill facilities to improve their scores and to dilute the weight of more germane criteria, such as Community Impact considerations which have no points assigned to them, including the presence of huge volumes of hazardous waste in unlined areas within a landfill, and how the landfill's proximity to the end of the main runway at the City's airport and the risk of a bird strike can impact the community. Further, this criteria related to Workforce Diversity Hiring and Advancement Policy may violate the Texas Constitution's "Due Course of Law" Provision in Article 1, Section 19 because it is not rationally related to a governmental interest.

**That said, TDSL is an equal employment opportunity employer. As such TDSL offers equal employment opportunities without regard to race, color, religion, sex (including pregnancy), national origin, age, disability, genetic information, veteran status, or any other status protected by law. These opportunities include all terms, conditions, and privileges of employment, including but not limited to recruitment, selection, hiring, job placement, training, compensation, discipline, discharge, advancement and termination. It is also TDSL's policy that any form of discrimination or harassment on the basis of race, color, religion, sex (including pregnancy), sexual orientation, national origin, age, disability, genetic information, veteran status, or any other status protected by law, will not be tolerated in the work place.**

**While TDSL does not attempt to address every situation that may arise in a written policy, TDSL's practice is to encourage flexibility in its managers and contractors in their attempting to meet accommodation requests and achieve current best-practice diversity goals wherever possible, given funding and work-product requirements. TDSL seeks to encourage commitment to an interactive process between the management and employees of its contractors in their recruiting, retention and advancement practices that is sensitive to non-discriminatory and diversity-focused goals and concerns.**

**Further, TDSL's hiring practices are consistent with the City of Austin's Fair Chance Hiring Ordinance.**

**Community Impact and Social Equity**

**Intent: Support and minimize harm to potentially impacted neighboring communities and provide equitable compensation and advancement opportunities.**

**5.1 I Living wage and health care benefits****10 points**

It makes no sense to allocate ten points out of one hundred points available for a Type I landfill and ten points out of eighty points available for a Type IV landfill for this criteria, which would normally be required within the procurement process of any contractor providing services to the City. In other words, allocating points for offering a living wage and health coverage has no effect but to give away points to help all landfill facilities to improve their scores, and to dilute the impact of more germane criteria like Zero Waste and beneficial re-use operations, as well as Community Impact considerations (which have no points assigned to them), such as the presence of huge volumes of hazardous waste in unlined areas within a landfill, and how the landfill's proximity to the end of the main runway at the City's airport and the risk of a bird strike can impact the community. Further, this criteria may violate State law that says minimum wage law is reserved for the Texas Legislature to establish.

**That said, TDSL has no employee that is paid less than \$15 per hour.**

## **5.2 Type IV Landfill Matrix Criteria**

**TDSL insists that it be included as an acceptable facility for the disposal of construction and demolition waste. In the event that staff attempts to create two separate lists of eligible landfills (a concept that was never discussed by stakeholders), we have provided this response to staff's Type IV Landfill Criteria Matrix as TDSL is authorized to accept all the same types of waste materials as any Type IV facility.**

While TDSL does not object to providing the requested information, TDSL firmly believes that this COA staff imposed Landfill Criteria Matrix (LCM) is a fatally flawed document and process, which explicitly ignores the instructions of the City Council to staff and the requests of stakeholders and the extensive well-documented stakeholder meetings. TDSL believes it is a clear attempt by COA staff to change longstanding City policy by unilaterally imposing an arbitrary and capricious Landfill Criteria Matrix designed to qualify all landfills in the Austin area as acceptable, and give landfill development projects previously rejected by the Austin City Council the highest scores while giving the landfill previously supported by the City Council low scores. The staff-imposed Landfill Criteria Matrix appears to be designed to prevent the City Council from being able to oppose the imminent expansion plans of problematic landfill facilities and to prevent the City from finding those landfills to be an unacceptable risk to the City and an inappropriate landfill to earn the Council's support for their continued operation and expansion. It would provide a landfill operator the basis to seek damages from the City for opposing its expansion, if the landfill had successfully met the standard of the Landfill Criteria Matrix.

TDSL objects to the staff's refusal to develop a Landfill Criteria Matrix that is consistent with previous Council priorities, as recommended by the Council's Solid Waste Management Policy Working Group (SWMPWG). TDSL objects to the staff's refusal to consider and evaluate (i) the greater Austin Community Impact, (ii) the proven business model of facility operations and landfill diversion practices, and (iii) the existing levels of hazardous materials buried in landfills as recommended by the Council's SWMPWG. TDSL objects to staff's incomprehensible determination that industrial waste, hazardous waste and construction and demolition waste are not subject to landfill scoring. TDSL objects to staff's exemption from any Landfill Criteria Matrix restrictions on the residuals disposal from processing City controlled recyclables and compostable material. TDSL strongly objects to the staff's ignoring City Council directives and the Zero Waste Advisory Commission (ZWAC) recommendations to Council related to the Landfill Criteria Matrix, and to the staff's refusal to seek Council approval prior to implementing this Landfill Criteria Matrix.

Accordingly, TDSL submits this response to staff's Request For Information, while at the same time protesting the arbitrary and capricious Landfill Criteria Matrix unilaterally conceived and imposed by City staff to effectively render this and future City Councils incapable of opposing the permitting, opening, operation and expansion of landfills in the vicinity of Austin, and effectively incapable of opposing any landfill from receiving waste controlled by the City, as long as it is scored within twenty five points of the highest scoring landfill applying to receive City controlled waste. TDSL is in no way validating the potential results of the staff's scoring, and in no way waiving our right to challenge any attempts by staff to utilize the results of this Request For Information in a manner that is inconsistent with TDS contracts, City authorizations, any State or Federal law, or any use beyond the provision of information.

**Carbon Footprint**

**Intent: Minimize the generation of Landfill gas and beneficially use what is produced in ways that replace carbon-based energy sources.**

**5.2 A On-site use of carbon free energy****5 points**

We are not aware of any heavy landfill operations fleet equipment available that utilizes carbon free energy; and, due to the heavy nature of that equipment, there is not likely to be any available in the near future. Further, the effect of allocating 5% of the points to this aspirational criteria only dilutes the overall allocation of points amongst other relevant criteria.

**That said, several of TDSL'S interior roadway automated ingress/egress physical control mechanisms (gates) are powered by 100% solar radiant energy, thus obviating the need for any carbon-based energy source to power said interior roadway ingress/egress physical control mechanisms. TDSL also utilizes outdoor illumination devices in a number of locations such as pathways and material tipping areas that are 100% solar powered. Also, the remainder of our concrete crushing, screening and associated conveying equipment is powered electrically.**

**Environmental, Zero Waste, and Sustainability****Intent: Minimize negative impacts to the environment and implement positive ones.****5.2 B Permit Compliance****10 points**

Use of this specific criteria means that the City will rely entirely on the TCEQ's determinations of each landfill's environmental integrity, land use compatibility, groundwater protection, landfill gas migration prevention, odor control, etc., despite the long history of bad operating practices and lack of concern for adverse community impact and despite the City legal department itself vehemently decrying the inadequacy and inaccuracy of such TCEQ determinations respective of the WM-ACL, and despite the TCEQ's permit compliance evaluation only considering the past five years of operations.

Points are only awarded for a High compliance rating by TCEQ. Currently all the landfills in the Austin area have a High compliance rating. However, any landfill could be reduced to a Satisfactory rating, resulting in no points being awarded due to a minor permit violation. These minor violations will cause a landfill to lose these points for the next five years that any violation remains part of the most recent five year compliance history evaluation.

A review of a landfill's TCEQ Compliance History is insufficient to determine whether the landfill is minimizing the negative impacts to the environment and will likely continue to operate in the same manner for the duration of the contract to accept City controlled waste. The most recent five year Compliance History rating should simply be a small piece of the overall analysis to consider. Compliance History calculations are often incorrect because TCEQ staff have not included all required components. A landfill can receive a paperwork violation that reduces the rating from High to Satisfactory resulting in a loss of 10 points under the Landfill Criteria Matrix for five years, yet the violation has no negative impact to the environment. A landfill should not be scored less for non-environmental deductions to the Compliance History rating.

Further, the most recent five year Compliance History rating only includes components related to violations actually identified by TCEQ in an investigation. That is why an independent investigation of the facility is required to verify the landfill is minimizing the impact to the environment. Only a thorough review of the landfill's operating history, waste in place, leachate generation, groundwater and landfill gas migration monitoring system's effectiveness and the monitoring results, the landfill design, construction, operations and records can give a true snapshot of the negative impacts to the environment a landfill has had or may have the potential for in the future.

The City of Austin has conducted such a review in the past. The City of Austin commissioned an engineering firm, Carter & Burgess, to perform a landfill environmental assessment on the Austin Community Landfill, the Sunset Farms Landfill, and the Texas Disposal Systems Landfill. That firm issued a report in 1999. The environmental problems identified at the Waste Management-Austin Community Landfill in the 1999 report still exist today, to our knowledge. To obtain a more accurate analysis of whether a specific landfill is minimizing impacts to the environment the following issues should be considered:

- How is the landfill liner and leachate collection system designed and constructed for all filled and all yet to be filled landfill disposal cells onsite?
- Do any landfill units exist without a constructed landfill liner and leachate collection system, or a certified in-situ landfill liner and leachate collection system?
- Does each landfill unit have a sufficient groundwater and landfill gas monitoring system capable of detecting offsite migration of leachate and landfill gas?

- Have groundwater and landfill gas monitoring reports recorded any historical exceedances?
- Has the storm water permit, inspection reports, and lab results indicated any problems?
- Has documentation related to leachate quantity and quality been studied for discrepancies?
- Is the landfill in compliance with air quality authorizations and have the required records been reviewed for anomalies?
- Are there landfill cells without adequate liners that contain large quantities of waste with hazardous constituents?
- If so, how are the specific hazardous waste constituents being monitored and contained?
- Does the landfill have sufficient clay soils for daily, intermediate and final cover requirements?
- Is enough information available about the local geology to evaluate the natural protective quality of the clay soils?
- Does the landfill have an adequate fire protection plan?
- How is odor management being conducted?
- How are disease carrying vectors being controlled and managed?
- How is the spilled waste and windblown debris being handled?
- What methods are used to control dust and silt releases from the site?
- How many and what types of complaints are recorded concerning the landfill?

These items are crucial in gaining an understanding of whether the landfill is minimizing negative impacts to the environment. The Compliance History will only reveal what the TCEQ has found over the last 5 years and may not include problems that actually exist today.

**That said, TDSL has a HIGH compliance rating from the TCEQ for the most recent 5 year rating period.**

## Environmental, Zero Waste, and Sustainability

**Intent: Minimize negative impacts to the environment and implement positive ones.**

### **5.2 C Zero Waste/beneficial diversion**

**15 points**

This criteria will award maximum points for minimum effort. A landfill operator would only have to divert one hundred tons per year in five categories to receive the full 15 points. To illustrate the absurdity of this particular criteria, a landfill operator could simply accept 100 tons of source separated brush, pallets and wood waste over each twelve month period at an on-site public drop-off location, and then offer to sell used forklift pallets out of the pile, and grind that same 100 tons of wood waste annually with a leased or owned grinder, and then stack that 100 tons of mulch in a pile where it was dropped off for five to ten years until it composts on its own, and then either spread that composted material on the ground or offer it to customers, and the landfill operator will receive the maximum number of points available under all six categories listed to meet Zero Waste requirements on an annual basis. In a nutshell, this is an excellent example of how the staff has bent over backwards to accommodate all landfills receiving acceptable scores for commitment to Zero Waste, while favoring new landfills, that only have to “plan” to do the minimum in the future to receive full points in their first year, as well as large landfills who have done virtually nothing in the past to support the City’s Zero Waste program. This pales in comparison to the TDSL landfill, composting and recycling operations, which divert hundreds of thousands of tons from landfill disposal each year, but yet one hundred tons of diversion per year, as described above, by another landfill will receive the same number of points. The staff’s Landfill Criteria Matrix proposal is outrageous because it will award equal points regardless of the amount of waste diverted in the past or likely to be diverted in the future, or the scale of the operator’s financial investment in landfill diversion activities. Further, the allocation of only fifteen points to this category seems inappropriate for a City that is guided by a “Zero Waste Master Plan”. These fifteen points are also further diluted by the addition of other criteria not requested by the Council, ZWAC or stakeholders.

**That said, TDSL diverts far more than one hundred tons per year in each of the categories listed by staff in the Landfill Criteria Matrix.** Since opening its landfill, composting and recycling facility in February 1991, TDSL has held a leadership role in responsible resource management and diversion of waste from landfill disposal. TDSL’s commitment to maximum economic diversion of waste materials from landfill disposal has never wavered, and is demonstrated in its ongoing investment of tens of millions of dollars to secure adequate real property, proper agency authorizations, sufficient material flows and providing jobs for hundreds of individuals to divert, process, compost, recycle and market these diverted waste streams. TDSL’s unwavering commitment and significant investments result in successful diversion of hundreds of thousands of tons of materials away from landfill disposal each year. In 2018, the TDSL landfill, recycling and composting operations successfully diverted over 200,000 tons of organic materials, construction and demolition waste, scrap metal, concrete and aggregates, and residential and commercial recyclables. Diversion activities at the TDSL landfill, recycling and composting facility include but are not limited to:

- **A large scale citizen’s waste and recyclables drop-off and reusable product resale center.** This feature of the TDSL facility allows trained personnel to assist customers with offloading their materials while identifying and diverting thousands of tons each year of recyclable, organic and reusable materials away from landfill disposal. Metals, paper, plastics, and organic materials are recovered for recycling or composting, and reusable items are neatly displayed in the TDSL resale center and sold to the public at reasonable prices.



- **A 30+ acre organic materials processing, composting and soil blending operation.** This large-scale grinding and composting operation accepts tens of thousands of tons each year of various types of organic waste materials, including brush and yard trimmings, untreated dimensional lumber and drywall, and pre-consumer and post-consumer food and liquid wastes, which are used to produce over 40+ different types of organic composts, mulches and soil amendment products. These organic products are sold to the public, in bags or bulk volumes, at the on-site Garden-Ville retail outlet operation, and at five other Garden-Ville retail outlet locations in central Texas.
- **A 107,000 sq. ft. materials recovery facility for residential and commercial recyclables.** This operation accepts tens of thousands of tons each year, including approximately 45% of the City of Austin's residential single stream curbside recyclables and recyclables from numerous other municipalities, commercial and institutional generators. These materials – various types of paper and plastic, glass and metals - are then processed and sorted by material type. The materials are packaged and prepared in accordance with industry specifications and marketed to various end users in commercial load quantities. All process residuals are either responsibly held for further processing or disposed of in the TDSL landfill.
- **A construction and demolition waste material sorting and recycling operation.** This operation accepts thousands of tons each year of mixed loads of construction and demolition materials, which are then sorted by material type and recycled onsite at the various co-located operations within the 2,000+ acre TDSL facility. All waste residuals are disposed in the TDSL landfill.
- **A large-scale concrete and aggregate processing and recycling operation.** This operation accepts tens of thousands of tons each year of clean scrap concrete, asphalt, brick, rock, stone and rubble materials. TDSL diverts these highly recyclable materials from the landfill and processes them into various types and sizes of recycled products using an on-site industrial crushing and screening plant. TDSL uses these products to build roads and pads on the site and to sell excess volumes to contractors and the general public for use in various civil applications and projects.
- **A large-scale scrap metal and salvage yard.** This operation accepts thousands of tons each year of scrap ferrous and non-ferrous metals. Materials are sorted by specific type, processed to industry specifications and then marketed in commercial load quantities to various mills. A small portion of the materials received at this operation are diverted to on-site resident artist centers, where they are used to create decorative artwork and sculptures made of recycled metals.

**Operational Safety**

**Intent: Minimize the safety risk to the landfill's employees and others onsite.**

**5.2 D Safety Record****10 points**

This criteria relies on the OSHA 300 report to determine if points are awarded. The report is based on each location an entity operates. This means an entity may have many different activities in addition to the landfill operations that statistically affect the incidence rate for accidents and illness. In other words, a landfill operator that operates numerous separate and co-located recycling and diversion facilities and employs hundreds of people on one or more sites would be at a disadvantage relative to a facility that only employs enough people and equipment to achieve basic landfill disposal services on one site.

**That said, TDSL's past five incident and illness rates were 0.0 (2018), 0.0 (2017), 0.0 (2016), 0.0 (2015), and 0.0 (2014).**

**Operational Safety****Intent: Minimize the safety risk to the landfill's employees and others onsite.****5.2 E Onsite fatalities or catastrophes****15 points**

This criteria is flawed in the same manner as 5.2 F. The reports are based on a legal entity that may do much more than operate a landfill. This means an entity may have many different activities in addition to the landfill and even landfill diversion operations that could be included in the same report as the landfill. Fatalities are rare, as are severe injuries, but the possibility of one occurring on a facility with hundreds of employees working on the site is much more likely to occur than on the site of a simple landfill with no associated operations and a single shift of ten to twenty employees. Yet a single such injury would cause the landfill to lose the points for at least five years under the staff's approach for an injury in an operation on the site that has nothing to do with the landfill operation. This would also ignore the fact that in many instances fatalities or severe injuries that must be reported are not in any way caused by the negligence of the landfill operator.

**That said, TDSL has zero entries in the Severe Injury Reports or in the Fatality Inspection Data within the past five years. Since the Severe Injury Reports and Fatality Inspection Data are many thousands of pages, and no entries pertain to TDSL, we have elected not to provide the Reports or Data themselves.**

**Community Impact and Social Equity**

**Intent: Support and minimize harm to potentially impacted neighboring communities and provide equitable compensation and advancement opportunities.**

**5.2 F Workforce Diversity Hiring and Advancement Policy 15 points**

Allocating fifteen out of the one hundred points available for a Type I landfill and fifteen out of eighty points available for a Type IV landfill merely for an operator stating that they now have or that they will have such a policy when their landfill opens serves no other purpose than to give away points to help all landfill facilities to improve their scores and to dilute the weight of more germane criteria, such as Community Impact considerations which have no points assigned to them, including the presence of huge volumes of hazardous waste in unlined areas within a landfill, and how the landfill's proximity to the end of the main runway at the City's airport and the risk of a bird strike can impact the community. Further, this criteria related to Workforce Diversity Hiring and Advancement Policy may violate the Texas Constitution's "Due Course of Law" Provision in Article 1, Section 19 because it is not rationally related to a governmental interest.

**That said, TDSL is an equal employment opportunity employer. As such TDSL offers equal employment opportunities without regard to race, color, religion, sex (including pregnancy), national origin, age, disability, genetic information, veteran status, or any other status protected by law. These opportunities include all terms, conditions, and privileges of employment, including but not limited to recruitment, selection, hiring, job placement, training, compensation, discipline, discharge, advancement and termination. It is also TDSL's policy that any form of discrimination or harassment on the basis of race, color, religion, sex (including pregnancy), sexual orientation, national origin, age, disability, genetic information, veteran status, or any other status protected by law, will not be tolerated in the work place.**

**While TDSL does not attempt to address every situation that may arise in a written policy, TDSL's practice is to encourage flexibility in its managers and contractors in their attempting to meet accommodation requests and achieve current best-practice diversity goals wherever possible, given funding and work-product requirements. TDSL seeks to encourage commitment to an interactive process between the management and employees of its contractors in their recruiting, retention and advancement practices that is sensitive to non-discriminatory and diversity-focused goals and concerns.**

**Further, TDSL's hiring practices are consistent with the City of Austin's Fair Chance Hiring Ordinance.**

**Community Impact and Social Equity**

**Intent: Support and minimize harm to potentially impacted neighboring communities and provide equitable compensation and advancement opportunities.**

**5.2 G Living wage and health care benefits****10 points**

It makes no sense to allocate ten points out of one hundred points available for a Type I landfill and ten points out of eighty points available for a Type IV landfill for this criteria, which would normally be required within the procurement process of any contractor providing services to the City. In other words, allocating points for offering a living wage and health coverage has no effect but to give away points to help all landfill facilities to improve their scores, and to dilute the impact of more germane criteria like Zero Waste and beneficial re-use operations, as well as Community Impact considerations (which have no points assigned to them), such as the presence of huge volumes of hazardous waste in unlined areas within a landfill, and how the landfill's proximity to the end of the main runway at the City's airport and the risk of a bird strike can impact the community. Further, this criteria may violate State law that says minimum wage law is reserved for the Texas Legislature to establish.

**That said, TDSL has no employee that is paid less than \$15 per hour.**

LANDFILL NAME: Texas Disposal Systems (TDS)



# Staff Landfill Criteria (Type I)

Objective?	Criteria		Description & Measure	Pts Avail	Pts Given
	<b>1 Carbon Footprint</b>		<b>INTENT:</b> Minimize the generation of landfill gas and beneficially use what is produced in ways that replace carbon-based energy sources.	<b>25</b>	
Y	1a	Estimated landfill gas collection emissions	<p><b>Description:</b> The Landfill Operator shall provide information on the most recent landfill gas emissions and total waste in place reported in the USEPA's Facility Level Information on Greenhouse Gases Tool (<a href="#">USEPA FLIGHT</a>; See Notes, below) using the smaller value derived from using HH6 or HH8. (See Notes, below.)</p> <p><b>Measure:</b> For purposes of this criterion, "normalized emissions" are equal to a landfill's annual Landfill Gas Emissions (mTCO2e) divided by its total Waste In Place (metric tons), using the smaller value derived from using HH6 and HH8 calculation methods. The normalized emissions will be compared to all the active landfills listed by the Texas Commission on Environmental Quality (TCEQ) in the Alamo Area Council of Governments, Capital Area Council of Governments, Houston-Galveston Area Council, and North Central Texas Council of Governments and group the landfills. The Landfill Operator will receive all of the available points if its landfill's normalized emissions are in the lowest third of the normalized emissions and half of the available points if its normalized emissions are in the middle third. An operator of a new landfill that is not required to report to USEPA FLIGHT will receive full credit but only in its first two years of operation.</p>	18	18
Y	1b	Onsite use of carbon-free energy	<p><b>Description:</b> The Landfill Operator shall provide information on its use of carbon-free fuels, power, or energy for its landfill fleet or other uses separate from a landfill's on-site use of landfill gas. This includes but is not limited to solar, wind, hydrogen, or electric technology. Use of electric vehicles and carbon-free energy sources is preferred over carbon-based energy sources.</p> <p><b>Measure:</b> The Landfill Operator will receive full credit for any carbon-free energy use at the landfill.</p>	5	5
Y	1c	Landfill gas beneficial use	<p><b>Description:</b> The Landfill Operator shall provide information on its current uses of its landfill gas. This does not include waste-to-energy technologies, except for normally occurring landfill gas-to-energy, not including bioreaction. For example, the Landfill Operator could use landfill gas to produce electricity, fuel vehicles, or generate space heating, or the landfill gas could be fed into a natural gas line for off-site use.</p> <p><b>Measure:</b> The Landfill Operator will receive full credit for LFG beneficial use at the landfill. An operator of a new landfill that is not required to report to USEPA FLIGHT will receive full credit but only in its first two years of operation.</p>	2	0
	<b>2 Environmental, Zero Waste, and Sustainability</b>		<b>INTENT:</b> Minimize negative impacts to the environment and implement positive ones.	<b>25</b>	
Y	2a	Permit compliance	<p><b>Description:</b> The Landfill Operator shall provide the landfill's environmental <a href="#">Compliance History</a> for the most recent five-year rating period (based on records at the Texas Commission on Environmental Quality or other appropriate environmental regulatory agency). (See Notes, below.)</p> <p><b>Measure:</b> The Landfill Operator will receive full credit for achieving a High Compliance rating for the most recent five-year rating period. The landfill will receive no credit for a Satisfactory.</p>	10	10

LANDFILL NAME: Texas Disposal Systems (TDS)

Y	2b	Zero Waste / beneficial waste diversion	<b>Description:</b> The Landfill Operator shall submit a detailed list of activities that promote zero waste and waste diversion.	15	15
			<b>Measure:</b> The Landfill Operator will receive three points for each of up to five of the following onsite activities that reduce annual disposal of at least one hundred tons of reusable, recyclable, compostable materials or products consistent with the Austin Resource Recovery Master Plan. An operator of a new landfill will receive credit for planned onsite activities with a waiver of annual disposal tonnage reduction, but only in its first year of operation: <div><div>1. Large-scale drop-off or buyback of source-separated products or materials for reuse or recycling</div><div>2. Large-scale grinding of landscape debris or wood scrap for non-fuel uses</div><div>3. Large-scale composting of organic materials</div><div>4. Reclamation of materials from processing mixed construction or demolition debris for reuse or recycling</div><div>5. Reclamation of products or materials for reuse or recycling</div><div>6. Other activity diverting significant quantities for reuse, recycling, mulch, or composting</div></div>		
3 Operational Safety			INTENT: Minimize the safety risk to the landfill's employees and others onsite.	25	
Y	3a	Safety record	<b>Description:</b> The Landfill Operator shall provide information on its injury and illness incident rate for the past five years. The City will review the most recent Bureau of Labor Statistics (BLS) annual report of Occupational Injury and Illness Incidence Rates of by industry. (See Notes, below.)	10	10
			<b>Measure:</b> The Landfill Operator will receive full credit if its most recent incident rate is less than or equal to the total incidence rate for solid waste landfills nationwide in the most recent BLS report.		
Y	3b	Onsite fatalities or catastrophes	<b>Description:</b> The Landfill Operator shall provide OSHA's most recent <a href="#">Severe Injury Reports</a> and OSHA's <a href="#">Fatality Inspection Data</a> for the past five years. (See Notes, below.)	15	0
			<b>Measure:</b> The Landfill Operator will receive full credit for having no severe injuries, fatalities, or catastrophes within the past five years.		
4 Community Impact and Social Equity			INTENT: Support and minimize harm to potentially impacted neighboring communities and provide equitable compensation and advancement opportunities.	25	
Y	4a	Workforce diversity policy	<b>Description:</b> The Landfill Operator shall provide documentation affirmative hiring and diversity advancement policies.	15	0
			<b>Measure:</b> The Landfill Operator will receive all available points for providing documentation of affirmative hiring (including a Fair Chance hiring policy) and diversity advancement policies within the landfill operations.		
Y	4b	Living wage and benefits	<b>Description:</b> The Landfill Operator shall provide documentation on the number and percentage of all its full-time, non-exempt landfill employees earning at least the current living wage as set by the City for its contracts. (See Notes, below.)	10	10
			<b>Measure:</b> The Landfill Operator will receive credit if all of its full-time, non-exempt employees earn at least the current living wage and receive health care protection as set by the City for its contracts.		

**NOTES:**

**Criteria 1a.** The Facility Level Information on Greenhouse Gases Tool (USEPA FLIGHT [ghgdata.epa.gov/ghgp/main.do](http://ghgdata.epa.gov/ghgp/main.do)) provides access to greenhouse gas data reported to EPA by large emitters, facilities that inject CO2 underground, and suppliers of products that result in GHG emissions when used in the United States. In general, facilities that directly emit 25,000 metric tons of carbon dioxide equivalent or more per year are required to submit annual reports to EPA.

**Criteria 2a.** TCEQ determines a compliance rating for each facility annually based on inspections and complaint investigations. Ratings are maintained on a 5 year rolling schedule and are classified as High, Satisfactory or Unsatisfactory with a numerical rating that fits into each of these compliance tiers. See [www.tceq.texas.gov/compliance/enforcement/compliance-history](http://www.tceq.texas.gov/compliance/enforcement/compliance-history).

**Criteria 3a.** See the Nonfatal injury and illness rates by industry published by the Bureau of Labor Statistics at [www.bls.gov/iif](http://www.bls.gov/iif) for private industry solid waste landfills (NAICS 562212). Nationally, solid waste landfills reported an incidence rate for nonfatal occupational injuries and illnesses of 4.9 in 2016.

**Criteria 3b.** See OSHA's [Severe Injury Reports](http://www.osha.gov/severeinjury/index.html) at [www.osha.gov/severeinjury/index.html](http://www.osha.gov/severeinjury/index.html) and OSHA's [Fatality Inspection Data](http://www.osha.gov/dep/fatcat/dep_fatcat.html) at [www.osha.gov/dep/fatcat/dep\\_fatcat.html](http://www.osha.gov/dep/fatcat/dep_fatcat.html).

**Criteria 4b.** The Austin City Council established a Living Wage for certain contractors by adopting Resolution No. 20160324-020 ([www.austintexas.gov/edims/document.cfm?id=250908](http://www.austintexas.gov/edims/document.cfm?id=250908)). See the [Living Wage](#) for contracts executed during the city's current fiscal year per hour ([www.austintexas.gov/faq/what-citys-living-wage](http://www.austintexas.gov/faq/what-citys-living-wage)).

## Ryan Hobbs

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**From:** ARR Solicitations <ARR.Solicitations@austintexas.gov>  
**Sent:** Friday, May 3, 2019 12:30 PM  
**To:** Adam Gregory; ARR Solicitations  
**Cc:** Bob Gregory; Gary Newton; Ryan Hobbs  
**Subject:** RE: RFI 1500 SLW6002

We have received your protest intent, and have forwarded your explanation request to the appropriate parties.

City of Austin  
Austin Resource Recovery

**From:** Adam Gregory [mailto:[agregory@texasdisposal.com](mailto:agregory@texasdisposal.com)]  
**Sent:** Thursday, May 2, 2019 3:31 PM  
**To:** ARR Solicitations <ARR.Solicitations@austintexas.gov>  
**Cc:** Bob Gregory <[bgregory@texasdisposal.com](mailto:bgregory@texasdisposal.com)>; Gary Newton <[gnewton@texasdisposal.com](mailto:gnewton@texasdisposal.com)>; Ryan Hobbs <[rhobbs@texasdisposal.com](mailto:rhobbs@texasdisposal.com)>  
**Subject:** Re: RFI 1500 SLW6002

In order to avoid any confusion, Please consider the previous email a notification to protest both TDSL's Type I & IV scores.

Sent from my iPhone

On May 2, 2019, at 11:38 AM, Adam Gregory <[agregory@texasdisposal.com](mailto:agregory@texasdisposal.com)> wrote:

Please consider this email a written notification of TDSL's intent to protest staff's scoring of our response to RFI SLW6002.

TDSL would greatly appreciate a written explanation of all deductions as soon as possible.

Respectfully,

Adam Gregory



**Explanation of Landfill Criteria Matrix Point Deductions**

**Texas Disposal Systems Landfill (TDSL)**

**Type I Landfill**

bgregory@texasdisposal.com

1c: Landfill gas beneficial use. Landfill operator did not provide information on current use of landfill gas.

3b: Onsite fatalities or catastrophes. The Landfill Operator provided a statement of no severe injuries or fatalities at the landfill. OSHA severe injury report (<https://www.osha.gov/severeinjury/index.html>) indicates multiple severe injuries.

4a: Workforce diversity policy. The Landfill Operator did not provide documentation of affirmative hiring and diversity advancement policies within landfill operations.