



# County of Orange

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County Executive Office

August 13, 2024

Honorable Maria D. Hernandez  
Presiding Judge of the Superior Court of California  
700 Civic Center Drive West  
Santa Ana, CA 92701

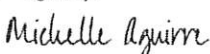
Subject: "Talking Trash: Recyclables and Organics" Grand Jury Response

Dear Judge Hernandez:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors. The respondents are the Orange County Board of Supervisors and the County Executive Office.

If you have any questions, please contact Lisa Fernandez of the County Executive Office at 714-834-7219.

Sincerely,

Signed by:  
  
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Michelle Aguirre  
Acting County Executive Officer

Enclosure

cc: 2023-24 Orange County Grand Jury Foreman  
Lilly Simmering, Deputy County Executive Officer  
Lisa Fernandez, Director of Performance Management and Policy  
Elizabeth Guillen-Merchant, Director of Performance Management and Policy

# Responses to Findings and Recommendations FY2023-24 Grand Jury Report



## "Talking Trash: Recyclables and Organic Waste"

### SUMMARY RESPONSE STATEMENT

On June 11, 2024, the Grand Jury released a report entitled "Talking Trash: Recyclables and Organic Waste". This report directed responses to findings and recommendations to the Orange County Board of Supervisors and OC Waste & Recycling. The responses are below:

### FINDINGS AND RESPONSES

**F1. The majority of Orange County jurisdictions have not yet required their haulers to distribute residential containers that meet the CalRecycle standardized colors, leaving legacy and often incorrect or illegible labeling and embossing in place.**

Response: Disagrees partially with the finding.

The County of Orange and many jurisdictions have implemented a phased approach to their container rollouts. Per SB 1383, containers that meet the CalRecycle standardized colors and labeling shall be in place by 2036. The County of Orange franchise waste haulers are replacing carts systematically, as new carts are rolled out to replaced damaged carts, requests for new carts, and for new customers. Any remaining customers will have a final rollout between 2034 and 2035.

**F2. While a jurisdiction may not delegate its overall responsibility for compliance with State requirements to a hauler, some jurisdictions have designated the task of imposing and collecting fines from residents to the hauler in accordance with State law. However, not all jurisdictions are clear on who ultimately receives and retains the collected fines.**

Response: Agrees with the finding.

The County of Orange is utilizing County Staff for inspection and enforcement activities. The County shall collect any fine revenues and those revenues will be utilized for education and outreach to continue to educate customers on the regulations and meeting compliance. Many jurisdictions are utilizing fine revenues for education and outreach, but also to fund staffing and consultants who are conducting SB 1383 related activities. Some jurisdictions however are still working internally on who should retain collected fines and how they should be utilized. This leaves each jurisdiction to decide, based on their Organics Ordinance, operating structure, and direction from their legal counsel. The County of Orange has provided information to jurisdictions through its Recycling Coordinators Committee Meetings, where best practices are presented, and jurisdictions can share their position on these activities.

**F3. All jurisdictions will eventually start collecting fines from residents for non-compliance, but some have not yet determined whether the revenues will go into a waste and recycling enterprise fund or into the jurisdiction's general fund.**

Response: **Agrees with the finding.**

Orange County Waste & Recycling (OCWR) operates as an enterprise fund. Any potential fine revenue will be returned to OCWR and utilized for education and outreach efforts.

**F4. In most jurisdictions, education and outreach is a joint effort between jurisdiction, hauler, and sometimes consultants, with the jurisdiction reviewing the materials before publication. The methods of dissemination vary by jurisdiction and hauler but frequently rely on a resident actively seeking the information, which requires the resident to have some awareness of the new mandates in the first place. Most efforts primarily revolve around intermittent hard-copy paper mailings.**

Response: **Disagrees partially with the finding.**

The County of Orange sees the importance in utilizing various methods for messaging. The County currently utilizes, paper/postcard mailings, newspaper and magazines, email, various social media platforms, television, educational tours, and community events. In addition, OCWR partners with Department of Education to develop classroom curriculum as well as the Discovery Cube Eco Challenge to provide hands on education. Many other jurisdictions also utilize additional methods in addition to paper mailings and a social media platform.

**F5. Most jurisdictions currently have no way to accurately determine the effectiveness of their respective education and outreach efforts other than the eventual inspections or audits that will take place.**

Response: **Agrees with the finding.**

While the County agrees with this finding, OCWR utilizes residential feedback at events, through social media, and survey data to additionally assess the effectiveness of our education and outreach efforts. Additional data will be analyzed through enforcement efforts as it becomes available. While some jurisdictions conduct similar efforts, many jurisdictions have limited funding to conduct these additional activities.

**F6. There is some concern that there are not enough composting facilities in Orange County to process all organic waste, forcing some jurisdictions/haulers to transport it long distances for processing.**

**Response: Disagrees partially with the finding.**

OCWR operates Greenery (composting facilities) at each of its three landfills. These facilities have additional capacity to take and process organic waste within its permit limits and are continuing to expand. In addition, there are private compost facilities within the County of Orange that can accept additional organic waste. Depending on a jurisdiction's franchise agreement they could be contractually required to take organic waste to a facility their hauler operates for processing outside of the county.

**F7. There is currently no infrastructure in the county that is a State-approved source of Renewable Natural Gas (RNG) and energy from organic waste. Jurisdictions that use vehicles running on RNG procured from non-approved sources cannot count that RNG towards fulfillment of their procurement requirement.**

**Response: Disagrees partially with the finding.**

OCWR is investing in RNG infrastructure locally at its landfills and is currently in the planning and permitting phase. Some jurisdictions within the County are receiving procurement credits for RNG utilized in their waste hauling vehicles. RNG is a limited resource for procurement compliance.

**F8. The formula used by the State to calculate a jurisdiction's procurement target does not account for a jurisdiction's population density or geographic size (square miles). As such, meeting the annual procurement target presents a significant challenge for most jurisdictions.**

**Response: Agrees with the finding.**

OCWR has taken a proactive roll in meeting its procurement target and has met and surpassed its targets set and required by SB 1383. However, the County does agree that some jurisdictions do face challenges with population density, lack of operational funding and resources, lack of open space, and are largely built out.

**F9. Many Orange County jurisdictions were unable to meet the requirement in SB 1383 to reduce organic waste sent to landfills by the 2020 deadline. It is unlikely the required seventy-five percent reduction will be achieved by the 2025 deadline.**

**Response: Disagrees partially with the finding.**

While all jurisdictions are striving to meet this goal, the 75% reduction is a statewide achievement goal, and there are various exemptions for meeting this target. Some jurisdictions were also locked into Franchise Agreements which did not include organics recycling. As Franchise Agreements are up for renewal, these jurisdictions are now including the required organics recycling measures per SB 1383. Additionally, CalRecycle recognizes that the 75 % organic waste diversion target will not be achieved by 2025, if using the lengthy compliance process under the Good Faith Effort standard which was set. However, OCWR is working diligently with its franchise haulers to try and meet the 75% reduction in organic waste by 2025.

**F10. The current procurement requirements mandated by SB 1383 are unrealistic and likely unachievable by most jurisdictions.**

Response: Disagrees partially with the finding.

OCWR has established Greeneries at each of its three active landfills. These greeneries provide free SB 1383 approved compost and composted mulch for jurisdictions to procure and utilize to meet their procurement requirements. OCWR implemented tracking systems to allow jurisdictions, their haulers, and landscapers to procure material and OCWR is currently working with 24 Orange County jurisdictions. However, the County does recognize that due to the density and lack of open space in some jurisdictions, utilization of procurement material within their jurisdiction is limited as well as limited funding for procurement activities.

Jurisdictions can utilize material outside of their jurisdiction and some jurisdictions within the County are currently providing material they procured for agricultural usage in other areas of the state.

OCWR has implemented an extensive phased marketing plan, marketing our organics products to various businesses and agencies, including but not limited to landscapers, homeowner associations, developers, Caltrans, Natural Resources Agencies, special districts, school districts and other county agencies. Once a contact is made, OCWR works to identify if a jurisdiction or the County will receive the procurement credit and tracks all material being procured, additionally providing tonnage reports to each jurisdiction.

The County additionally has a procurement target for the unincorporated area. To meet our own procurement target, OCWR has implemented a compost giveaway program, residential compost pickup program, and works with special districts, landscapers, Caltrans, OC Public Works, and OC Parks. Through these partnerships the County was able to meet its 2023 procurement target and is on track to meet its 2024 procurement target as well.

## RECOMMENDATIONS AND RESPONSES

**R1. All jurisdictions should expedite the acquisition and distribution of residential containers that meet the CalRecycle standardized colors. Additionally, until the compliant containers can be distributed, all jurisdictions should ensure the distribution of labeling for non-compliant containers that explain the current SB 1383 requirements applicable to their jurisdiction by June 30, 2025.**

Response: The recommendation has been implemented.

OCWR franchise haulers sent decals to all unincorporated County residents, outlining what should and should not be placed in each bin. This initial mailing was conducted ahead of the SB 1383 implementation deadline. In addition, OCWR franchise haulers are manually placing labels on any container missing a label during their route inspections.

OCWR's franchise haulers have rolled out some of the new color carts within the unincorporated area ahead of the 2036 rollout deadline and the process continues. Our haulers will rollout new carts which meet the new color and labeling requirements as cart replacements are conducted and with new customer accounts as required by our new franchise agreements. This phased approach allows for a systematic replacement of carts throughout the system, with a final rollout taking place between 2034 and 2035.

Many jurisdictions within the County are taking this same approach to the container standardization and in process of rolling out containers to meet the regulatory deadline.

**R2. By December 31, 2024, all jurisdictions should ensure their waste hauling agreements are in compliance with State statute so that haulers may be designated to perform certain required tasks but are not improperly delegated overall responsibility for compliance. Additionally, all jurisdictions should ensure that any fines collected by a hauler are forwarded to the jurisdiction.**

**Response: The recommendation has been implemented.**

As required by SB 1383 all jurisdictions are required to have an ordinance with enforcement mechanisms. OCWR updated all franchise agreements and adopted its ordinance in 2021 that includes all the requirements of SB 1383 and previous recycling regulations such as AB 939, AB 341, and AB 1826. OCWR has met all enforcement requirements and has recently executed a Memorandum of Understanding (MOU) with OC Public Works/Code Enforcement to conduct enforcement activities on our behalf. All revenue from any potential fines is collected and transferred from OC Public Works to OCWR to fund education and outreach efforts.

The regulations do not restrict what revenue from enforcement can be utilized for and each jurisdiction is taking different approaches based on their resources and funding streams. OCWR will utilize any revenue received from enforcement actions to fund additional education and outreach activities as OCWR's goal is to receive compliance through education.

Other Orange County Jurisdictions have implemented similar programs with contractors, haulers, or internal staff/departments conducting their enforcement activities. Other jurisdictions are utilizing enforcement revenue to hire consultants to assist in meeting SB 1383 compliance or for funding other SB 1383 related activities and staffing.

**R3. The OCGJ recommends that all jurisdictions utilize a dedicated waste and recycling enterprise fund for collection of fines for non-compliance with SB 1383 by December 31, 2024.**

**Response: The recommendation has been implemented.**

OCWR is an enterprise fund with the County of Orange and manages all waste and recycling activities for the County. Any fine revenue received from non-compliance is directed to OCWR.

**R4. By December 31, 2024, all jurisdictions should diversify the methods and media used for education and outreach to include, among others, various social media platforms, emails to residents, newspaper, television, flyer mailings, community events, and appearances at other public gatherings.**

**Response: The recommendation has been implemented.**

OCWR implemented an extensive education and outreach campaign when implementing SB 1383. OCWR's outreach campaigns have not only reached the unincorporated area, but other jurisdictions both inside and outside of the County of Orange. OCWR utilizes various methods to accomplish its education and outreach efforts including mailings, social media, pod casts, interviews, attendance at various events, compost giveaways, and live television. OCWR was able to host Telemundo, to conduct various live broadcasts from our Frank R. Bowerman facility, which allowed OCWR staff to explain the requirements of SB 1383 but also market our free compost and mulch material that we make at our greenery locations. In addition, OCWR utilizes its various regional partnerships with the Orange County Department of Education, Discovery Cube OC Eco Challenge (Race to Recycle, Organics Waste Lab, Household Hazardous Waste), Anaheim Ducks, and Los Angeles Angels of Anaheim to reach audiences of all ages and expand its education and outreach abilities. OCWR's combined outreach efforts resulted in more than 1.5 million educational touchpoints in 2023 alone. All education and outreach created by OCWR is available for every jurisdiction to leverage for their own compliance to minimize efforts in content creation, costs, and support consistent messaging for SB 1383 implementation.

**R5. By December 31, 2024, and in order to gauge the effectiveness of their education and outreach efforts, all jurisdictions should develop new methods to engage residents directly to help determine their awareness of the requirements associated with SB 1383, such as surveys, online quizzes, and door-to-door polling.**

**Response: The recommendation has been implemented.**

OCWR utilizes various methods to gauge the effectiveness and reach of its education and outreach efforts. Utilizing the various social media platforms, OCWR pulls reports which shows visitor "clicks throughs", "forwards", and "touch point data" on how education and outreach provided via social media was read, shared, forwarded, liked, clicked, etc. In addition to this, at many of our public functions real time in-person surveys are taken to gauge the source where residents heard about the special event, compost giveaway or received educational information. OCWR also participates in the Discovery Cube Eco Challenge, where schools compete on various recycling initiatives and complete waste diversion curriculum. Additional data and information will be analyzed as it becomes available through OCWR's enforcement program and waste stream audits.



**R6. By June 30, 2025, the OCGJ recommends that all jurisdictions participate in the OCW&R-led efforts to develop a coordinated county-wide approach to the organics recycling infrastructure and programs as well as procurement requirements associated with SB 1383, working towards creating circular economy as a long-term goal.**

Response: The recommendation has been implemented.

OCWR as the lead agency has taken a proactive cooperative approach in not only building out our organics facilities but being an industry leader in the rollout of SB 1383. This was aided by OCWR's ability to update its waste hauler franchise agreements in 2021. While many jurisdictions have updated these agreements some jurisdictions are still locked in multi-year agreements and unable to amend those agreements to include 1383 mandated requirements. However, many jurisdictions throughout the County are continuing to rollout their SB 1383 programs in every effort to meet the regulations and the County has continued to assist them through various working groups such as our Recycling Coordinators Meetings, providing resources on implementation, education and outreach, state funding opportunities, and enforcement.

OCWR actively markets its organics material to jurisdictions and works with each jurisdiction in walking through the process to procure material from our facilities, and the tracking and reporting process.

Lastly, continued assistance will be discussed with the cities during the negotiations for the new Waste Infrastructure System Enhancement (WISE) agreements and the many opportunities to rely on OCWR for jurisdictional compliance will be presented for each city to consider at what level they would like to participate, all the while maintaining the County's compliance with SB1383.

**R7. By December 31, 2024, the Orange County Board of Supervisors and all Orange County cities should lobby appropriate members of the State Legislature and/or CalRecycle to revise the organic waste diversion targets to better reflect Orange County's waste amounts, revise the jurisdictions' procurement requirements to better represent the limited options currently available for procurement, the jurisdictions' varying populations, population densities, and geographic size, and to delay associated enforcement actions by the State.**

Response: The recommendation has been implemented.

OCWR hosts monthly and quarterly meetings open to all OC jurisdictions/Recycling Coordinators, jurisdictions consultants, and haulers, to lead them through SB 1383 implementation, provide information and assistance on items including but not limited to, the County Unincorporated rollouts, procurement, capacity planning, and enforcement. OCWR has taken the lead to walk jurisdictions and haulers through the various elements of SB 1383 and what it means to each jurisdiction specifically, while providing leadership and support in their green waste disposal, processing, and procurement targets to ensure each city who wants to be in compliance can meet compliance without sacrificing other city programs.

The OCWR Director and staff meet monthly with the County Legislative Office and our lobbyist to discuss SB 1383 and other legislative items that will be impacting the County of Orange. In early 2024 OCWR hosted an event at our Frank R. Bowerman Landfill with a State delegation representing Orange County invited to tour our facility and to go over SB 1383 concerns.

The County of Orange Board of Supervisors has also supported AB 2346, which would allow jurisdictions more options to procure material to meet their procurement requirements, including direct service provider agreements and funding for expansion of organics facilities.