

STATE OF CONNECTICUT



*AUDITORS' REPORT
MATERIALS INNOVATION AND RECYCLING AUTHORITY
FISCAL YEARS ENDED JUNE 30, 2017 AND 2018*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ ROBERT J. KANE

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April 21, 2020

EXECUTIVE SUMMARY

In accordance with the provisions of Sections 1-122 and 2-90 of the Connecticut General Statutes, we have audited certain operations of the Materials Innovation and Recycling Authority (MIRA), formerly the Connecticut Resources Recovery Authority (CRRA). The objectives of this review were to evaluate the authority’s internal controls; compliance with policies and procedures, as well as certain legal provisions; and management practices and operations for the fiscal years ended June 30, 2017 and 2018.

The key findings and recommendations are presented below:

Page 11	MIRA did not prepare and submit its required annual plan of operations to the Department of Energy and Environmental Protection. The Materials Innovation and Recycling Authority should prepare and submit its annual plan of operations. If the authority believes this reporting requirement is redundant, it should seek an amendment to Section 22a-264 of the General Statutes to change or eliminate the reporting requirement. (Recommendation 1.)
Page 13	MIRA made a separation payment to secure an employee’s resignation without eliminating their position. The MIRA board of directors did not approve this expenditure. The Materials Innovation and Recycling Authority should not make a separation payment in excess of \$5,000 unless it receives approval from its board of directors. (See Recommendation 2.)

STATE OF CONNECTICUT



AUDITORS OF PUBLIC ACCOUNTS

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April 21, 2020

AUDITORS' REPORT

We have audited certain operations of the Materials Innovation and Recycling Authority in fulfillment of our duties under Section 1-122 and Section 2-90 of the Connecticut General Statutes. The scope of our audit included, but was not necessarily limited to, the fiscal years ended June 30, 2017 and 2018. The objectives of our audit were to:

1. Evaluate the authority's internal controls over significant management and financial functions;
2. Evaluate the authority's compliance with policies and procedures internal to the authority or promulgated by other state agencies, as well as certain legal provisions; and
3. Evaluate the effectiveness, economy, and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, minutes of meetings, and other pertinent documents; interviewing various personnel of the authority; and testing selected transactions. We obtained an understanding of internal controls that we deemed significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contracts, grant agreements, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Résumé of Operations is presented for informational purposes. This information was obtained from various available sources including, but not limited to, the authority's management and the state's information systems, and was not subjected to the procedures applied in our audit of the authority. For the areas audited, we identified:

1. Deficiencies in internal controls;
2. Apparent noncompliance with policies and procedures or legal provisions; and
3. Need for improvement in management practices and procedures that we deemed to be reportable.

The State Auditors' Findings and Recommendations in the accompanying report presents any findings arising from our audit of the Materials Innovation and Recycling Authority.

COMMENTS

FOREWORD

The Materials Innovation and Recycling Authority (MIRA) was established as a successor to the Connecticut Resources Recovery Authority (CRRRA) by Public Act 14-94, effective June 06, 2014. MIRA operates primarily under the provisions of Title 22a, Chapter 446e of the General Statutes. Section 22a-261(a) of the General Statutes names MIRA a public instrumentality and political subdivision of the state created for the performance of an essential public and governmental function. MIRA is a quasi-public agency subject to the requirements within Section 1-120 of the General Statutes. MIRA's financial information, as a component unit, is included in the State of Connecticut's Comprehensive Annual Financial Report (CAFR).

The mission of MIRA is to work for and in the best interest of the state's municipalities and residents in developing and implementing environmentally sound solutions and best practices for solid waste disposal and recycling management. The purpose of MIRA is to plan, design, construct, finance, manage, own, operate and maintain solid waste disposal, volume reduction, recycling, resource recovery facilities and related facilities considered necessary, desirable, convenient or appropriate in carrying out the provisions of the state solid waste management plan. MIRA provides solid waste management services to municipalities, regions, and persons within the state by receiving solid waste at MIRA facilities, recovering resources from solid waste, and generating revenues from the services sufficient for MIRA to operate on a self-sustaining basis.

The predecessor to MIRA, the Connecticut Resources Recovery Authority (CRRRA), was created in 1973 to modernize the state's solid waste disposal practices by developing a network of resource recovery facilities and shifting the state away from the process of landfilling. CRRRA built facilities in Hartford, Preston, Bridgeport and Wallingford to serve systems historically known as the Mid-Connecticut, Southeast, Bridgeport, and Wallingford projects respectively. The initial underlying contracts for the Mid-Connecticut, Southeast, Bridgeport, and Wallingford projects expired over the last several years, resulting in a distribution and/or reformation of project assets.

For the fiscal years ended June 30, 2017 and 2018, MIRA’s financial interests and activities were focused within its operations of the Connecticut Solid Waste System (CSWS) and Property and Landfill divisions. MIRA undertook certain closeout activities related to the Mid-Connecticut and Southeast projects. Those closeout activities advanced MIRA’s evolution to focus on the operation and redevelopment of the CSWS in accordance with Sec. 22a-268g of the General Statutes. The statute required the commissioner of the Department of Energy and Environmental Protection, in consultation with MIRA, to solicit proposals for the redevelopment of the CSWS Project. Since then, MIRA has been working closely with DEEP to develop the new system. In September 2016, DEEP announced its selection of three finalists, which were invited to participate in the second phase of the proposal. On January 2, 2018, DEEP announced its selection of the Sacyr Rooney Redevelopment Team (SRRT) to modernize and operate the Hartford plant on a long-term basis. SRRT is an alliance between Sacyr, an international Spain-based firm specializing in complex infrastructure projects, and Manhattan Construction Group, which has extensive experience financing and building large-scale infrastructure projects. MIRA and SRRT have been engaged in negotiations consistent with MIRA’s municipal service agreements, the contracting requirements in MIRA’s enabling legislation (Public Act 14-94), and the DEEP request of proposal. SRRT’s proposal calls for significant reduction in combustion at the site, enhanced recycling, and new technologies for anaerobic digestion and composting. The project will assist the state in reaching its statutory goal to divert 60% of waste from disposal by landfill or combustion by 2024. The redeveloped system is expected to commence operations by July 1, 2023.

Under the provisions of Section 22a-262 (a)(3) of the General Statutes, the authority is authorized to utilize, through contractual arrangements, private industry to implement some or all of the requirements of the statewide solid waste management plan and for other activities it considers necessary.

Recent State Legislation

Public Act 16-185, effective July 1, 2016, amended Section 22a-261 of the General Statutes and removed the prohibition on more than two of the Governor’s three authority board of director appointees belonging to the same political party.

Public Act 17-60, effective July 1, 2017, amended Sec.1-123 of the General Statutes and repealed the requirement that MIRA submits its report required by Sec.1-123 to the Legislative Program Review and Investigative Committee, as the committee no longer exists.

Public Act 18-137, effective June 11, 2018, amended Section 1-123(a)(4) of the General Statutes and requires quasi-public agencies to include a complete set of financial statements, instead of just a balance sheet, in their annual report to the Governor and the Auditors of Public Accounts.

Public Act 18-137, effective October 1, 2018, prohibits quasi-public agencies from making a payment in excess of fifty thousand dollars to a departing employee for the purposes of avoiding costs associated with potential litigation or pursuant to a nondisparagement agreement. Additionally, the act makes it illegal for the agreement to prohibit an employee from making a

complaint or providing information in accordance with Section 4-61dd of the General Statutes (Whistleblower Act).

Board of Directors and Administrative Officials

Pursuant to Section 22a-261 (b) of the General Statutes, the powers of MIRA are vested in and exercised by a board of directors. The MIRA board consists of 11 members who represent municipalities or are experts in the field of energy, environment, public or corporate finance, or business. The board should include 3 members appointed by the Governor; 2 appointed by the president pro tempore of the Senate; 2 appointed by the speaker of the House of Representatives; 2 appointed by the minority leader of the Senate; and 2 appointed by the minority leader of the House of Representatives. No director may be a member of the General Assembly. The Governor appoints the chairperson of the board. The board adopts bylaws and procedures it deems necessary to carry out its functions. Members of the board as of June 30, 2018, were as follows:

Appointed by the Governor:

James M. Hayden
Robert L. Painter
Patricia M. Widlitz

Legislative Appointments:

Honorable, Donald S. Stein, Chair
John E. Adams
Richard J. Barlow
Lizz Milardo
Scott Shanley
Three Vacancies

In addition, the board established several committees and subcommittees to assist in making decisions related to MIRA. During the audited period, the MIRA board had these standing committees: Finance Committee, Synergy and Human Resources Committee, and Policies and Procurement Committee.

Thomas D. Kirk served as president of MIRA throughout the audited period and continues to serve in that capacity.

RÉSUMÉ OF OPERATIONS

Connecticut Solid Waste System Project

The Connecticut Solid Waste System (CSWS) is the primary operating division of the authority. During the fiscal years ended June 30, 2017 and 2018, CSWS provided solid waste disposal and recycling services to 51 municipalities and 41 private haulers in the state. CSWS provided those services using the Hartford resource recovery facility operated by [NAES Corporation](#), 3 satellite transfer stations in Torrington, Watertown and Essex, and the Hartford recycling center.

The Hartford resource recovery facility consists of a waste processing facility and a power block facility. The plant processes approximately one-third of the state's solid waste by burning and converting that energy to electricity. The power block facility has three combustion boilers to incinerate the refuse derived fuel and create steam. The two steam turbines convert that steam into electricity. The facility processed 622,673 and 554,315 tons of municipal solid waste and generated 313,999 and 276,654 megawatt hours of energy in the fiscal years ended June 30, 2017 and 2018, respectively.

The member tipping fees for waste disposal are based on a tiered contractual arrangement and averaged \$69.80 per ton for the fiscal year ended June 30, 2018. The CSWS business model provides that participating town waste disposal fees be set at the level necessary to fund its net cost of operation. The net cost of operation is the total operating budget less the revenue from the sale of generated energy, the use of the CSWS by non-participating municipalities, and the recycling activities. Therefore, the change in energy price directly affects the tip fees charged to participating towns. Some of the town contracts include tip fee opt-outs, which if exceeded, allow the towns to terminate the contract. Non-disposal fee revenues in recent years have been volatile enough to cause tip fees to approach and ultimately exceed this opt-out level during the 2018 fiscal year. This volatility was due to the performance of the CSWS resource recovery system, energy prices, tip fees for non-participating towns, and the recycled commodities. To address the challenge of energy revenue volatility, MIRA management established the Tip Fee Stabilization Fund within its Property Division. Additional information concerning this fund is discussed later under the Property Division section of this report.

The Hartford recycling center processed 71,144 and 66,761 ton of recyclables and recovered 64,635 and 57,515 tons of paper, cardboard and containers from the waste stream for resale into recycling commodities market during the fiscal years ended June 30, 2017 and 2018, respectively. Due to steep declines in recycled commodity prices, CSWS did not generate surplus recycling revenue, and consequently did not provide rebates to its participating municipalities.

Below is selected revenue information from the audited financial statements along with the processed municipal solid waste (MSW) tonnage and member town tipping fees for the project for the audited period and the preceding year:

	<u>Fiscal Years Ended June 30,</u>		
	<u>2018</u>	<u>2017</u>	<u>2016</u>
Municipal Solid Waste Processed (ton)	554,315	622,673	631,450
Recyclable Processed (ton)	66,761	71,144	72,223
Member and Others Service Charges (\$)	39,567,000	39,678,000	39,141,000
Energy Generation-Net of In-Plant Usage (MWh)	276,654	313,999	377,494
Energy Sales (\$)	15,598,000	12,674,000	15,857,000
Member Town Tipping Fee per Ton (\$)	69.80	65.20	63.80

The CSWS facility’s operational performance was unsatisfactory/weak during the 2017 fiscal year. Municipal solid waste processed declined by 1.4% and energy production declined by 20.2% between the 2016 and 2017 fiscal years. Energy sales decreased by 20.1%, due to declines in energy production and prices. The facility’s operational performance remained poor during the 2018 fiscal year. Municipal solid waste processed declined by 11.0% and energy production declined by 11.9%. However, energy sales increased by 23.1%, due to a peak in energy prices.

In November 2018, two turbine generators at the Hartford plant failed, causing MIRA to cease operations for more than three months. MIRA was forced to reduce the amount of waste accepted and divert a significant portion of accepted waste to out-of-state sites. The financial impact was significant and included increases of operating expenses followed by the increase in tipping fees for member municipalities. Effective April 1, 2019, the tip fee increased by \$9.35, and effective July 1, 2019, there was another \$1.65 increase, bringing the total tip fees to \$83 per ton of solid waste. MIRA expects to recover some of the out-of-state diverting costs from business interruption insurance claims and revenues from increased member town tipping fees.

Property Division

When the Mid-Connecticut and Bridgeport projects expired, all non-landfill CRRRA capital assets transferred to the Property Division. This primarily included the Hartford resource recovery and recycling facilities, 3 transfer stations, jet-powered electric generating peaking units, the Bridgeport project’s land, and the Stratford recycling facility. The division derived net income from the lease of the Bridgeport project and other property, and the sale of the peaking unit power products through various ISO New England energy markets.

The Property Division’s Tip Fee Stabilization Fund helps to address the challenge of energy revenue volatility. The income generated from MIRA’s peaking units is the primary source of revenue for this fund. Management may draw funds to support the Connecticut Solid Waste System’s net cost of operations when wholesale energy revenue is low. The cash balance of the Tip Fee Stabilization Fund, as of June 30, 2018, was \$2.2 million and a total of \$24.9 million was contingently due back to the fund from CSWS. The increase of \$17.5 million due from CSWS since our prior audit was caused by the funding deficit. CSWS relies heavily on financial support from the Tip Fee Stabilization Fund because of declining operational performance of the CSWS project and increases in major maintenance costs. Property Division cash receipts were sufficient

to distribute \$4.0 million and \$9.9 million to the fund in the 2017 and 2018 fiscal years, respectively.

During the 2017 fiscal year, the authority sold its Stratford recycling facility and realized a gain on the sale of those assets.

Landfill Division

The Landfill Division consists of 3 closed landfills and adjoining properties in Ellington, Shelton, and Waterbury. The division is also assigned certain equipment and installations associated with those landfills as well as the Hartford landfill, which is owned by the City of Hartford. The Hartford landfill operation ceased in December 2008 and the landfill was certified closed in February 2015. MIRA installed, owns, and operates a photovoltaic solar panel system on a portion of the property and has a site access agreement with the City of Hartford. The division generates revenue from the sale of electricity produced by the solar panel system on top of the Hartford landfill. The authority has no liabilities for closure and post-closure care of landfills, as all landfills have been certified as closed, and all of the obligations transferred to DEEP pursuant to state statute.

Closeout Activities

During the fiscal years ended June 30, 2017 and 2018, the Mid Connecticut and Southeast projects remained administratively active on the MIRA financial statements for claims, litigation, and settlement activities only.

- **Mid Connecticut Project** – During the 2017 fiscal year, the authority and the Metropolitan District Commission (MDC) entered into a settlement agreement and absolute release related to MDC services to the Mid Connecticut Project. Pursuant to this agreement, the authority paid MDC \$8.3 million and MDC released the authority from all claims associated with the project. In addition, the Mid Connecticut Project received \$2.4 million of settlement money in the matter known as *CRRA v. Lay, et al.*, by transfer from the authority’s Property Division. This allowed the authority to disburse approximately \$3.4 million in surplus funds to the Mid-Connecticut member towns.
- **Southeast Project** – During the 2018 fiscal year, the authority and the Southeast Connecticut Regional Resource Recovery Authority (SCRRA) entered an assignment, release and indemnification agreement ending the authority’s interest and obligations in the Southeast Project. As part of this agreement, the authority retained \$0.4 million of Southeast project funds for its use without restriction and paid approximately \$0.7 million, representing all remaining Southeast project reserves, to SCRRA.

Other Examinations

Independent public accountants audited MIRA financial statements for the fiscal years under review. The goal of the independent audits was to provide reasonable assurance that the MIRA financial statements were free of material misstatements. The independent audit involved

examining evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. The independent public accountants concluded that the financial statements were fairly presented in conformity with Generally Accepted Accounting Principles.

Statement of Net Position

Based on the MIRA’s audited financial statements, a summary of assets, liabilities, and net position follows:

	<u>Fiscal Years Ended June 30,</u>		
	<u>2018</u>	<u>2017</u>	<u>2016</u>
Assets			
Current:			
Unrestricted Assets:			
Cash and Cash equivalents	\$ 32,727,000	\$ 41,605,000	\$ 43,682,000
Account Receivable, net of allowance	5,587,000	4,982,000	4,952,000
Inventory	6,203,000	5,937,000	5,954,000
Prepaid Expenses	2,496,000	2,322,000	3,295,000
Restricted Assets:			
Cash and cash equivalents	206,000	204,000	207,000
Total Current Assets:	47,219,000	55,050,000	58,090,000
Non- Current:			
Capital Assets:			
Depreciable, net	47,985,000	58,939,000	69,458,000
Nondepreciable	32,245,000	27,163,000	29,038,000
Total Non-Current Assets:	80,230,000	86,102,000	98,496,000
Total Assets	127,449,000	141,152,000	156,586,000
Liabilities			
Current:			
Payable from unrestricted assets:			
Accounts payable	1,444,000	1,854,000	2,615,000
Accrued expenses and other current liabilities	2,886,000	4,425,000	3,874,000
Unearned revenue	3,641,000	3,117,000	2,879,000
Payable from restricted assets:			
Accrued expenses and other current liabilities	157,000	155,000	158,000
Total Current Liabilities:	8,128,000	9,551,000	9,526,000
Long-Term:			
Other liabilities	-	5,000,000	5,000,000
Total Liabilities	8,128,000	14,551,000	14,526,000
Net Position			
Net investment in capital assets	80,230,000	86,102,000	98,496,000
Restricted	49,000	49,000	49,000
Unrestricted	39,042,000	40,450,000	43,515,000
Total Net Position	\$ 119,321,000	\$ 126,601,000	\$ 142,060,000

During the fiscal year ended June 30, 2017 and 2018, total assets decreased by \$15.4 and \$13.7 million, or 9.9 and 9.7%, respectively. Total liabilities decreased by \$0.03 and \$6.4 million, or 0.2 and 44.1% during the same period. This was primary due to the settlement milestones and project closeouts.

Summary of Revenues, Expenditures and Net Income

Based on the MIRA’s audited financial statements, a summary of revenues, expenditures and changes in net position follows:

	<u>Fiscal Years Ended June 30,</u>		
	<u>2018</u>	<u>2017</u>	<u>2016</u>
Operating Revenues:			
Service Charges: Members	\$ 25,519,000	\$ 24,200,000	\$ 26,103,000
Service Charges: Other	14,048,000	15,478,000	21,493,000
Energy sales	30,648,000	20,375,000	33,347,000
Other operating revenues	3,674,000	3,373,000	2,393,000
Total Operating Revenue	<u>73,889,000</u>	<u>63,426,000</u>	<u>83,336,000</u>
Operating Expenditures:			
Solid waste operations	51,420,000	50,722,000	66,148,000
Maintenance & utilities	906,000	1,522,000	1,098,000
Legal Services - external	(37,000)	1,713,000	580,000
Administrative and Operational Services	4,829,000	4,999,000	5,718,000
Distribution to SCRRRA	-	-	5,875,000
Operating Expenditures Before Depreciation	<u>57,118,000</u>	<u>58,956,000</u>	<u>79,419,000</u>
Operating Income before depreciation and amortization	16,771,000	4,470,000	3,917,000
Depreciation & amortization	<u>21,431,000</u>	<u>22,638,000</u>	<u>19,422,000</u>
Operating Loss	(4,660,000)	(18,168,000)	(15,505,000)
Non-Operating Revenues (Expenditures):			
Investment income	383,000	208,000	99,000
Settlement income	3,715,000	-	638,000
Settlement expenses, net	(2,324,000)	-	(693,000)
Distribution to SCRRRA	(656,000)	-	-
Distribution to towns	(3,412,000)	-	-
Other income (expenses), net	(326,000)	2,501,000	(1,833,000)
Non-Operating Revenues (Expenditures)	<u>(2,620,000)</u>	<u>2,709,000</u>	<u>(1,789,000)</u>
Change In Net Position	(7,280,000)	(15,459,000)	(17,294,000)
Total Net Position - Beginning Of Year	<u>126,601,000</u>	<u>142,060,000</u>	<u>159,354,000</u>
Total Net Position - End Of Year	<u>\$ 119,321,000</u>	<u>\$ 126,601,000</u>	<u>\$ 142,060,000</u>

During the fiscal year ended June 30, 2018, total operating revenue decreased by \$19.9 million, or 23.9%. This was due to the closeout and transfer of control of the Southeast Project to the Southeastern Connecticut Regional Resource Recovery Authority (SCRRRA), reduced energy production associated with the aging resource recovery facility, declining wholesale energy prices, and declining revenue from nonparticipating towns. Operating expenditures before depreciation decreased by \$20.5 million, or 25.8%, which was primary associated with the closeout of the Southeast Project. Income before depreciation increased by \$0.5 million or 14.1%. After \$22.6 million in depreciation and amortization expenses, the authority incurred an \$18.2 million operating loss.

During the fiscal year ended June 30, 2018, total operating revenue increased by \$10.5 million, or 16.5%, due to increased energy pricing and member service fees. Operating expenditures before depreciation decreased by \$1.8 million, or 3.1%, due to projects closeouts and reductions in all division expenses other than CSWS. Total operating and non-operating revenue, including settlement income, increased by \$11.1 million or 17.1%. Total operating and non-operating expenditures, including depreciation and settlement expenses, increased by \$3.7 million or 4.5%. Income before depreciation increased by \$12.3 million or 275.2%. After \$21.4 million in depreciation and amortization expenses, the Authority incurred a \$4.7 million operating loss.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our examination of the records of Materials Innovation and Recycling Authority disclosed the following two findings and recommendations, of which one has been repeated from the previous audit:

Annual Plan of Operations

Criteria: Section 22a-264 of the General Statutes requires the Materials Innovation and Recycling Authority to prepare an annual plan of operations which shall be reviewed by the Commissioner of the Department of Energy and Environmental Protection (DEEP) for consistency with the statewide solid waste management plan. Upon the commissioner's approval and a vote of the MIRA board of directors, the annual plan of operations is adopted.

Condition: Our review disclosed that MIRA did not prepare and submit its required annual plan of operations to DEEP.

Effect: There is less assurance that MIRA is providing solid waste management services in accordance with the statewide solid waste management plan.

Cause: MIRA management believes that the DEEP Resource Rediscovery initiative, pursuant to Section 22a-268g, has essentially and effectively served as the MIRA annual plan of operations.

Prior Audit Finding: This finding has been previously reported in the last audit reports covering the fiscal years ended June 30, 2015 and 2016.

Recommendation: The Materials Innovation and Recycling Authority should prepare and submit its annual plan of operations. If the authority believes this reporting requirement is redundant, it should seek an amendment to Section 22a-264 of the General Statutes to eliminate the reporting requirement. (See Recommendation 1.)

Agency Response: The Connecticut Department of Energy and Environmental Protection (DEEP) revised the Connecticut Solid Waste Management Plan in July 2016 in accordance with Public Act 14-94; it is now referred to as the 2016 Comprehensive Materials Management Strategy (CMMS).

The Materials Innovation and Recycling Authority (MIRA) has not submitted an Annual Plan of Operations since the CMMS was issued in July 2016 for the following reason:

The CMMS established strategies to modernize the solid waste infrastructure in the state, and established as a target a 60% diversion rate for the state.

Public Act 14-94, by adding new CGS 22a-268g, also directed DEEP to undertake an initiative to redevelop MIRA's Connecticut Solid Waste System (CSWS).

DEEP proceeded with a redevelopment initiative, called [Resource Rediscovery](#), which consisted of a 2 phase public solicitation to identify an organization that would contract with MIRA to redevelop MIRA's CSWS – primarily MIRA's Resource Recovery Facility located in Hartford – in accordance with the 2016 CMMS, targeting developers that would redevelop the facility with new enhanced technology and infrastructure to achieve a 60% diversion rate.

DEEP began this initiative in CY2015, selecting a final candidate firm, Sacyr Rooney Recovery Team LLC (SRRT) in December 2017, and directed MIRA to negotiate an agreement with SRRT. At this time, MIRA is conducting contract negotiations with SRRT.

CGS 22a-264 states that MIRA shall prepare an Annual Plan of Operations, which shall be reviewed by the Commissioner of Energy and Environmental Protection for consistency with the state-wide solid waste management plan (i.e., the CMMS). The CMMS (page 22) states that MIRA and DEEP will work in partnership to help facilitate a statewide transition to improved materials management technology and infrastructure. Accordingly, DEEP's "Resource Rediscovery" initiative pursuant to GCS 22a-268g has served as MIRA's Annual Plan of Operations since the CMMS was adopted in July 2016.

Additionally, MIRA is reviewing the opportunity to request the CT General Assembly amend existing legislation to more clearly reflect and account for subsequent statutory changes, in particular Public Act 14-94.

Auditors' Concluding Comments:

Section 22a-264 of the General Statutes states that MIRA should prepare an annual plan of operations, and that the plan should be reviewed by the commissioner of the Department of Energy and Environmental Protection. The purpose of the plan is to show that MIRA's activities conform to Connecticut solid waste management plan referred to as the Comprehensive Materials Management Strategy. Therefore, it does not appear MIRA can simply replace the plan with the Comprehensive Materials Management Strategy.

Separation Payment

- Criteria:* According to the MIRA Employee Handbook, the authority cannot make a separation payment to an employee unless their position is eliminated. In addition, Section 22a-268a of the General Statutes requires the MIRA board of directors to approve non-budgeted expenditures in excess of \$5,000.
- Condition:* MIRA made a separation payment to secure an employee's resignation without eliminating their position. The employee received a separation payment equal to 9 weeks of pay and 3 months of COBRA health insurance premiums, in return for the release of all claims against MIRA. The MIRA board of directors did not approve this expenditure.
- Effect:* Pursuing employee settlements contrary to established procedures, without proper board approval increases the potential for waste. It also may encourage other employees to seek similar separation payments.
- Cause:* MIRA believed a separation payment was in the best interest of the authority to avoid potential litigation costs. In addition, MIRA believed that it did not need to obtain board approval for the separation payment, because it used funds from budgeted salaries.
- Prior Audit Finding:* This finding has not been previously reported.
- Recommendation:* The Materials Innovation and Recycling Authority should not make a separation payment in excess of \$5,000 unless it receives approval from its board of directors. (See Recommendation 2.)
- Agency Response:* Due to persistent performance issues and numerous complaints, both from co-workers and from Authority customers, the Authority's President decided to terminate the employment of one of the Authority's Scale/Enforcement Specialists. With the advice of employment counsel, the President determined that it was in the Authority's best interests to allow the employee to submit his resignation, to enter into a Separation Agreement pursuant to which he waived the right to pursue any claims against the Authority, and to make bi-weekly payments in the amount of \$750/week to him for a 10-week period and to cover three months of his COBRA premiums – a total cost comparable to 10 weeks of his salary and benefits while employed. These amounts were included in the Authority's FY 2018 Authority Budget personnel line items, which included compensation and benefits to ten Scale/Enforcement Specialists, therefore the Authority did not believe that additional Board approval was required. Final payment to the employee was issued on February 15, 2018; his position was not filled until March 5, 2018. Furthermore, the Employee Handbook is only intended, as stated therein, to be a summary of the Authority's expectations compiled for the convenience of its employees,

and not intended to cover all topics or circumstances. As set forth in the initial section of the Handbook, "...[the Authority's] actions, from time to time, may also vary from the attached policies and procedures...."

The circumstances surrounding this employee's departure were highly unusual. It is unlikely that any other employee would ever be in a position to cite this separation as precedent for his/her own claim for separation payments – but in the event that similar circumstances were to exist, and employment counsel were to urge similar action, the Authority would be likely to follow the same procedure.

Auditors' Concluding Comments:

If the special circumstances required the termination of the employee and the creation of a separation agreement, MIRA should have received board approval, because the payment was in excess of \$5000.

RECOMMENDATIONS

Status of Prior Audit Recommendations:

Our prior audit report on the Materials Innovation and Recycling Authority contained two recommendations. One has been implemented or otherwise resolved and one has been repeated or restated with modifications during the current audit.

- The Materials Innovation and Recycling Authority should strengthen internal controls to ensure compliance with reporting requirements as prescribed by the Connecticut General Statutes. **This recommendation has been resolved.**
- The Materials Innovation and Recycling Authority should prepare and submit its annual plan of operations as required by the General Statutes. **This recommendation is being repeated. (See Recommendation 1.)**

Current Audit Recommendations:

- 1. The Materials Innovation and Recycling Authority should prepare and submit its annual plan of operations. If the authority believes this reporting requirement is redundant, it should seek an amendment to Section 22a-264 of the General Statutes to change or eliminate the reporting requirement.**

Comment:

MIRA did not prepare and submit its required annual plan of operations to the Department of Energy and Environmental Protection. MIRA management believes that the DEEP Resource Rediscovery initiative, pursuant to Section 22a-268g, has essentially and effectively served as the MIRA annual plan of operations.

- 2. The Materials Innovation and Recycling Authority should reconsider making a separation payment in excess of \$5,000 unless it receives approval from its board of directors.**

Comment:

MIRA made a separation payment to secure an employee's resignation without eliminating their position. The MIRA board of directors did not approve this expenditure.

ACKNOWLEDGMENTS

The Auditors of Public Accounts would like to recognize the auditors who contributed to this report:

Shirley Huang
Anna Karpiej

CONCLUSION

In conclusion, we wish to express our appreciation for the courtesies and cooperation extended to our representatives by the personnel of the Materials Innovation and Recycling Authority during the course of our examination.

Approved:



John C. Geragosian
State Auditor



Anna Karpiej
Auditor II



Robert J. Kane
State Auditor