STATE OF ILLINOIS

OFFICE OF THE AUDITOR GENERAL

FINANCIAL, COMPLIANCE, AND PROGRAM AUDIT

THE VILLAGE OF ROBBINS' USE OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS

AUGUST 2002

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To the Legislative Audit Commission, the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, the members of the General Assembly, and the Governor:

This is our report of the Financial, Compliance, and Program Audit of the Village of Robbins' Use of Municipal Economic Development Funds, for the year ended December 31, 2001.

The audit was conducted pursuant to Public Act 90-813, which was adopted on January 29, 1999. This audit was conducted in accordance with generally accepted government auditing standards and the standards promulgated by the Office of the Auditor General at 74 Ill. Adm. Code 420.310.

The audit report is transmitted in conformance with Section 3-14 of the Illinois State Auditing Act and Section 8-403.1 of the Public Utilities Act.

WILLIAM G. HOLLAND
Auditor General

Springfield, Illinois
August 2002

REPORT DIGEST

FINANCIAL, COMPLIANCE, AND PROGRAM AUDIT OF THE

VILLAGE OF ROBBINS' USE OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS

Released: August 2002

State of Illinois
Office of the Auditor General

WILLIAM G. HOLLAND
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SYNOPSIS

The Public Utilities Act (220 ILCS 5/8-403.1) requires the Auditor General to conduct an annual financial, compliance, and program audit of distributions received by any municipality from the Municipal Economic Development Fund. Qualified solid waste energy facilities are required to pay into the Fund $0.0006 per kilowatt hour of electricity for which payment was received during the previous month.

Each audit is to be for distributions from the Fund for the immediately preceding year. This is the third audit conducted under this requirement. This audit covers distributions from the Fund during calendar year 2001.

The Village of Robbins was the only entity to receive distributions from the Fund. The audit concluded that:

- Robbins began calendar year 2001 with a cash balance of $154,028 in its bank account for Municipal Economic Development Funds. Robbins received $263,184 from the Fund and earned $5,370 in interest income for calendar year 2001.
- Robbins disbursed $417,772 from Fund receipts. Our review of documentation provided by Robbins concluded that most calendar year 2001 expenditures of Fund receipts appeared to be consistent with Public Utilities Act guidelines.
- We questioned whether an expenditure for $46,000 met the requirements of the Public Utilities Act. This expenditure was part of a settlement payment to a plaintiff in a lawsuit against Robbins; as required by the Act, we will refer the matter to the Attorney General.

Although Robbins had adopted a spending policy for Fund receipts, the policy did not contain specific guidelines over expenditures or require justification to ensure that each expenditure meets the purposes specified in statutes.

REPORT CONCLUSIONS

The Village of Robbins is the only entity to receive distributions from the Municipal Economic Development Fund. In calendar year 2001, Robbins' cash receipts from the Municipal Economic Development Fund (MEDF) totaled $263,184, plus $5,370 in interest income, for total receipts of $268,554. Robbins' cash disbursements from the Fund receipts totaled $417,772. Robbins began calendar year 2001 with a cash balance of $154,028 in its bank account for Municipal Economic Development Funds and ended the year with a balance of $4,810 in the account.

Based on our review of documentation provided by Robbins, we concluded that calendar year 2001 expenditures of Fund receipts generally appeared to be consistent with Public Utilities Act requirements. Specific disbursements were made for repairs to the elevator in the Robbins police station, outfit and repair of fire and police vehicles, employee payroll and health insurance expenses, acquisition of furniture, Village water and waste hauling expenses, engineering services, street improvements, and acquisition of lobbying services and legal services.

We did, however, question whether one expenditure met the Public Utilities Act's guidelines. That expenditure was a $46,000 payment to a plaintiff as part of a lawsuit settlement against the Village. The Public Utilities Act states that MEDF distributions may be used only to:

> promote and enhance industrial, commercial, residential, service, transportation, and recreational activities and facilities within its boundaries, thereby enhancing the employment opportunities, public health and general welfare, and economic development within the community, including administrative expenditures exclusively to further these activities.

The Act also lists specific purposes for which the MEDF distributions cannot be used.

Village officials stated that Robbins' use of the MEDF distributions is consistent with the Public Utilities Act, noting that Robbins did not use the funds for any purpose specifically prohibited by the Act. Officials also noted that the lawsuit payment is consistent with the Act's provision to allow administrative expenditures to further allowable activities. According to Robbins officials, use of the MEDF funds to pay for the lawsuit settlement has allowed the Village's attorney to focus efforts on developing a business plan for the Village which includes redeveloping the closed incinerator facility.

The Public Utilities Act requires this Office to forward to the Office of the Attorney General instances where expenditures have not been made for the purposes delineated in the Public Utilities Act. Given that it is questionable whether the use of Municipal Economic Development Funds to pay for the lawsuit settlement agreement complies with the requirements of the Public Utilities Act, we will refer this matter to the Office of the Attorney General for review.

The Village had adopted a policy in February 2000 on the use of Municipal Economic Development Fund monies. However, the policies provided no more detailed guidance than those delineated in the Public Utilities Act. We recommended that the Village adopt more detailed policies and procedures to ensure that Municipal Economic Development Funds are used in accordance with the requirements of the Public Utilities Act.

THE MUNICIPAL ECONOMIC DEVELOPMENT FUND

The Public Utilities Act was amended in January 1999 to create the Municipal Economic Development Fund. The Municipal Economic Development Fund is a trust fund created outside the State treasury to receive and maintain payments from qualified solid waste energy facilities that sell electricity to electric utilities.

The State Treasurer is required to make quarterly distributions from the Fund to each city, village, or incorporated town that has within its boundaries an incinerator that:

(1) uses, or on the effective date of Public Act 90-813 [January 29, 1999], used municipal waste as its primary fuel to generate electricity;

(2) was determined by the Illinois Commerce Commission (ICC) to qualify as a qualified solid waste energy facility prior to the effective date of Public Act 89-448 [March 14, 1996]; and

(3) commenced operation prior to January 1, 1998.

According to information from the Illinois Commerce Commission and the Illinois Environmental Protection Agency, Robbins had the only operating incinerator in the State that met these criteria and was entitled to receive disbursements from the Municipal Economic Development Fund. (pages 1–3)

EXPENDITURE OF DISTRIBUTIONS FROM THE MUNICIPAL ECONOMIC DEVELOPMENT FUND

The State Treasurer made four quarterly Municipal Economic Development Fund payments to Robbins in calendar year 2001 totaling $263,184 (see Digest Exhibit 1). Robbins earned an additional $5,370 in interest income on the funds received, which resulted in total cash receipts of $268,554 for calendar year 2001. Digest Exhibit 1 also shows that Robbins disbursed $417,772 in Municipal Economic Development Fund receipts during calendar year 2001.

Robbins was the only entity to receive distributions from the Municipal Economic Development Fund.

Robbins received $263,184 from the Fund and earned $5,370 in interest income in calendar year 2001.

Robbins disbursed $417,772 in Fund receipts during calendar year 2001.

Digest Exhibit 1
ROBBINS' RECEIPT AND DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS
(Calendar Year 2001)

Fund Distribution Received 01/01:	$ 94,625
Fund Distribution Received 05/01:	$ 48,865
Fund Distribution Received 08/01:	$ 61,576
Fund Distribution Received 11/01:	$ 58,118
Interest Income:	$ 5,370
Total CY 01 Cash Receipts:	$268,554
Total CY 01 Cash Disbursements:	$417,772
(Deficiency) of Cash Receipts Over Cash Disbursements:	$(149,218)
Cash Balance End of CY00:	$154,028
Cash Balance as of 12/31/01:	$ 4,810

Note: Figures rounded to nearest dollar.
Source: Village of Robbins.

Specific disbursements were made for repairs to the elevator in the Robbins police station, outfit and repair of fire and police vehicles, employee payroll and health insurance expenses, acquisition of furniture, Village water and waste hauling expenses, engineering services, street improvements, payment to a plaintiff in a lawsuit against the Village, and acquisition of lobbying services and legal services. Digest Exhibit 2 shows the amount and purpose for each of Robbins' cash disbursements from the Municipal Economic Development Fund during calendar year 2001.

Digest Exhibit 2
VILLAGE OF ROBBINS' DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS
(Calendar Year 2001)

Amount	Purpose
$ 21,244	Payment to law firm for legal services related to Robbins' interest in incinerator bankruptcy proceedings
$ 17,591	Outfitting and repairing police and fire vehicles
$ 7,081	Repairs to elevator in police station
$ 73,775	Street improvements, including engineering services
$ 56,000	Lobbying services
$ 5,516	Furniture and shelving
$ 87,058	Village employee expenses • $80,000 for employee payroll • $ 7,058 for employee health care premiums
$ 93,130	Village services • $52,000 for water bill owed to City of Chicago • $40,934 for waste removal services • $196 for insurance/bonding
$ 50	Check printing fee
$10,327	Engineering services – topography
$ 46,000	Lawsuit settlement payment
$417,772	

Note: Figures rounded to nearest dollar.
Source: Village of Robbins.

Our review of documentation provided by Robbins concluded most calendar year 2001 expenditures of Fund receipts appear to be consistent with Public Utilities Act guidelines. However, we questioned whether the use of $46,000 in Fund receipts to pay a plaintiff part of an $800,000 settlement in a lawsuit against Robbins was consistent with the Act. The Act requires that funds may only be used to "promote and enhance industrial, commercial, residential, service, transportation, and recreational activities and facilities within its boundaries, thereby enhancing the employment opportunities, public health and general welfare, and economic development within the community."

Robbins officials stated that they did not use MEDF funds for any of the purposes specifically prohibited by the Act and that the Act allows spending for administrative costs to further allowable activities. Further, they noted the closure of the incinerator in 2001 had a significant negative impact on the

Village's ability to function and the use of MEDF funds for the settlement payment was necessary for Robbins to maintain the confidence of the financial and legal community.

Given that the expenditure of MEDF funds for a lawsuit settlement payment is a questionable use of funds under the Public Utilities Act, we will refer the matter to the Attorney General as required under the Act.

Robbins should adopt more detailed policies and procedures on allowable uses of MEDF funds.

Robbins' spending policy specifically for funds received from the Municipal Economic Development Fund, adopted in February 2000, mirrors the language in the statute and does not provide additional guidance to Robbins administrators as to what appropriate uses of Municipal Economic Development Funds may be or require a justification to show how the proposed use complies with the restrictions placed by the Public Utilities Act. We recommended that Robbins adopt more detailed policies and procedures on allowable uses of Municipal Economic Development Funds. (pages 3-6)

AGENCY RESPONSE

This report contains one recommendation. The Village of Robbins' response to the report is included as Appendix C of the report.

WILLIAM G. HOLLAND
Auditor General

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TABLE OF CONTENTS

Financial, Compliance, and Program Audit

VILLAGE OF ROBBINS'
USE OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS

(For the Year Ended December 31, 2001)

REPORT CONCLUSIONS

The Village of Robbins is the only entity to receive distributions from the Municipal Economic Development Fund. In calendar year 2001, Robbins' cash receipts from the Municipal Economic Development Fund (MEDF) totaled $263,184. Robbins also earned $5,370 in interest income, for total receipts of $268,554. Robbins' cash disbursements from the Fund receipts totaled $417,772. Robbins began calendar year 2001 with a cash balance of $154,028 in its bank account for Municipal Economic Development Funds and ended the year with a balance of $4,810 in the account.

Based on our review of documentation provided by the Village of Robbins, we concluded that Robbins' calendar year 2001 expenditures of Fund receipts generally appeared to be consistent with Public Utilities Act requirements. Specific disbursements were made for repairs to the elevator in the Robbins police station, outfit and repair of fire and police vehicles, employee payroll and health insurance expenses, acquisition of furniture, Village water and waste hauling expenses, engineering services, street improvements, and acquisition of lobbying services and legal services.

We did, however, question whether one expenditure met the Public Utilities Act's guidelines. That expenditure was a $46,000 payment to a plaintiff as part of a lawsuit settlement against the Village. It is questionable whether this expenditure complies with the requirements established by the Public Utilities Act regarding the allowable uses of Municipal Economic Development Funds. The Act states that MEDF distributions may be used only to:

> promote and enhance industrial, commercial, residential, service, transportation, and recreational activities and facilities within its boundaries, thereby enhancing the employment opportunities, public health and general welfare, and economic development within the community, including administrative expenditures exclusively to further these activities.

The Act also lists specific purposes for which the MEDF distributions cannot be used.

Village officials stated that Robbins' use of the MEDF distributions is consistent with the Public Utilities Act, noting that Robbins did not use the funds for any purpose specifically prohibited by the Act. Officials also noted that the lawsuit payment is consistent with the Act's provision to allow administrative expenditures to further allowable activities. According to

Robbins officials, use of the MEDF funds to pay for the lawsuit settlement has allowed the Village's attorney to focus efforts on developing a business plan for the Village which includes redeveloping the closed incinerator facility.

The Public Utilities Act requires this Office to forward to the Office of the Attorney General instances where expenditures have not been made for the purposes delineated in the Public Utilities Act. Given that it is questionable whether the use of Municipal Economic Development Funds to pay for the lawsuit settlement agreement complies with the requirements of the Public Utilities Act, we will refer this matter to the Office of the Attorney General for review.

The Village adopted a policy in February 2000 on the use of Municipal Economic Development Fund monies. However, the guidelines provided no more detailed guidance than those delineated in the Public Utilities Act. We recommended that the Village adopt more detailed policies and procedures to ensure that Municipal Economic Development Funds are used in accordance with the requirements of the Public Utilities Act.

BACKGROUND

Public Act 90-813, adopted on January 29, 1999, amended the Public Utilities Act (220 ILCS 5/8-403.1 – Appendix A) to require the Auditor General to conduct an annual financial, compliance, and program audit of distributions received by any municipality in Illinois from the Municipal Economic Development Fund. The audit requirement began January 1, 2000. Each audit is to be for distributions from the immediately preceding year. This is the third audit conducted under this requirement. The first audit, released in June 2000, covered calendar year 1999; the second audit covered calendar year 2000 distributions from the Municipal Economic Development Fund.

The Public Utilities Act specifies that if the Auditor General finds that distributions have been expended in violation of Section 8-403.1 of the Public Utilities Act, the matter shall be referred to the Attorney General. The Attorney General may recover, in a civil action, three times the amount of any distributions illegally expended.

THE MUNICIPAL ECONOMIC DEVELOPMENT FUND (MEDF)

The Public Utilities Act was amended in January 1999 to create the Municipal Economic Development Fund. The Municipal Economic Development Fund (Fund) is a trust fund created outside the State treasury to receive and maintain payments received from qualified solid waste energy facilities that sell electricity to electric utilities. The Public Utilities Act defines a "qualified solid waste energy facility" as a facility that the Illinois Commerce Commission (ICC) determines to qualify under the Local Solid Waste Disposal Act (415 ILCS 10) to use methane gas generated from landfills as its primary fuel and to possess characteristics that would enable it to qualify as a cogeneration or small power production facility under federal law.

Beginning in February 1999 and through January 2009, each qualified solid waste energy facility is required to pay into the Fund an amount equal to six-tenths of a mill ($0.0006) per kilowatt hour of electricity the facility sold to electric utilities. The facilities make the payments to the Department of Revenue, which deposits them into the Fund. Prior to January 2001, these monthly payments were made to the State Treasurer. Public Act 92-435, effective August 17, 2001, allows the Department to assess penalties and fees if a facility submits a payment late or fails to submit payments.

The State Treasurer is required to make distributions from the Municipal Economic Development Fund immediately after January 15, April 15, July 15, and October 15 of each year. Maximum aggregate distributions of $500,000 for the four quarters beginning with the April distribution and ending with the January distribution are to be made to each city, village, or incorporated town that has within its boundaries an incinerator that:

(1) uses, or on the effective date of Public Act 90-813 [January 29, 1999], used municipal waste as its primary fuel to generate electricity;

(2) was determined by the ICC to qualify as a qualified solid waste energy facility prior to the effective date of Public Act 89-448 [March 14, 1996]; and

(3) commenced operation prior to January 1, 1998.

According to information from the Illinois Commerce Commission and the Illinois Environmental Protection Agency, Robbins had the only operating incinerator in the State that met these criteria; therefore, Robbins was the only community entitled to receive disbursements from the Municipal Economic Development Fund.

Exhibit 1-1
AMOUNTS RECEIVED AND SPENT BY THE VILLAGE OF ROBBINS
Calendar Years 1999 - 2001

	CY99	CY00	CY01	Total
Fund Distributions	$61,628	$196,197	$263,184	$521,009
Interest	$0	$6,863	$5,370	$12,233
Total Income	$61,628	$203,060	$268,554	$533,242
Amounts Spent	$0	$110,660	$417,772	$528,432

Source: Information provided by Village of Robbins, State Comptroller, and prior OAG audits.

As shown in Exhibit 1-1, Robbins has received just over $521,000 in distributions from the Municipal Economic Development Fund since the Fund was created in 1999. The exhibit also shows the amount of interest earned by Robbins on those distributions and the amounts spent by Robbins for each year since 1999. No interest is recorded for 1999 because Robbins did not deposit the funds in a separate account until January 2000.

EXPENDITURE OF DISTRIBUTIONS FROM THE MUNICIPAL ECONOMIC DEVELOPMENT FUND

Exhibit 1-2 shows that the Treasurer made four quarterly Municipal Economic Development Fund payments to Robbins in calendar year 2001 totaling $263,184. Robbins earned an additional $5,370 in interest income on the funds received, which resulted in total cash receipts of $268,554 for calendar year 2001.

Exhibit 1-2 also shows that Robbins disbursed $417,772 in Municipal Economic Development Fund receipts during calendar year 2001. As required by the Public Utilities Act, Robbins held the funds in a separate account. The Act also sets restrictions on how the city, village, or town can use the distributions:

Exhibit 1-2
VILLAGE OF ROBBINS' RECEIPT AND DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS
Calendar Year 2001

Fund Distribution Received 01/01:	$94,625
Fund Distribution Received 05/01:	$48,865
Fund Distribution Received 08/01:	$61,576
Fund Distribution Received 11/01:	$58,118
Interest Income:	$5,370
Total CY 01 Cash Receipts:	$268,554
Total CY 01 Cash Disbursements:	$417,772
(Deficiency) of Cash Receipts Over Cash Disbursements:	$(149,218)
Cash Balance End of CY00:	$154,028
Cash Balance as of 12/31/01:	$4,810

Note: Figures rounded to nearest dollar.
Source: Village of Robbins.

- Funds may be used only to promote and enhance industrial, commercial, residential, service, transportation, and recreational activities and facilities within its boundaries, thereby enhancing the employment opportunities, public health and general welfare, and economic development within the community, including administrative expenditures exclusively to further these activities.
- Funds shall not be used, directly or indirectly, to purchase, lease, operate, or in any way subsidize the operation of any incinerator.
- Funds shall not be paid, directly or indirectly, to the owner, operator, lessee, shareholder, or bondholder of any incinerator.
- Funds shall not be used to pay attorney's fees in any litigation relating to the validity of Public Act 89-448, which was an act to abolish incinerator subsidies under the Retail Rate Law.

Robbins' officials deposited calendar year 2001 Municipal Economic Development Fund cash receipts into a separate bank account and used the funds for a variety of purposes. Specific disbursements were made for repairs to the elevator in the Robbins police station, outfit and repair of fire and police vehicles, employee payroll and health insurance expenses, acquisition of furniture, Village water and waste hauling expenses, engineering services, street improvements, payment to a plaintiff in a lawsuit against the Village, and acquisition of lobbying services and legal services. Exhibit 1-3 shows in detail the amount and purpose for each of Robbins' cash disbursements from the Municipal Economic Development Fund during calendar year 2001.

Based on our review of documentation provided by the Village of Robbins, we concluded that most of Robbins' calendar year 2001 expenditures of Fund receipts appeared to comply with Public Utilities Act guidelines. However, we questioned whether the use of Municipal Economic Development Funds to make a payment to a plaintiff in a settlement agreement was in accordance with the Public Utilities Act guidelines. The $800,000 settlement agreement requires the Village of Robbins to make payments to the plaintiff over a 10 year period. The case concerned the death of a child and allegations that the death was caused by the use of excessive force by Village police officers and by inadequate supervision of Village police officers.

Exhibit 1-3
VILLAGE OF ROBBINS' DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS
Calendar Year 2001

Amount	Purpose
$21,244	Payments to law firm for legal services related to representing the Village of Robbins' interest in incinerator bankruptcy proceedings
$17,591	Outfitting and repairing police and fire vehicles
$7,081	Repairs to elevator in police station
$73,775	Street improvements, including engineering services
$56,000	Lobbying services
$5,516	Furniture and shelving
$87,058	Village employee expenses • $ 80,000 for employee payroll • $ 7,058 for employee health care premiums
$93,130	Village services • $52,000 for water bill owed to City of Chicago • $40,934 for waste removal services • $196 for insurance/bonding
$50	Check printing fees
$10,327	Engineering services – topography
$46,000	Lawsuit settlement payment
$417,772	

Note: Figures rounded to nearest dollar.
Source: Village of Robbins.

Village officials stated that Robbins' use of the MEDF distributions for the lawsuit settlement agreement is consistent with the Public Utilities Act, noting that Robbins did not use the funds for any purpose specifically prohibited by the Act. Officials also noted that the lawsuit payment is consistent with the Act's provision to allow administrative expenditures to further allowable activities. According to Robbins officials, use of the MEDF funds to help pay the lawsuit settlement has allowed the Village's attorney to focus efforts on developing a business plan for the Village which includes redeveloping the closed incinerator facility. Village officials also noted that the Village's ability to sustain itself has allowed administrative staff to develop additional projects related to the purposes delineated in the statute.

A Village official stated that no activities listed in the statute could be accomplished if the Village was to become bankrupt, and that no other funds were available to make the required settlement agreement payment. Village officials noted that the closure of the incinerator facility in 2001 had a significant negative impact on the Village's ability to function. Consequently, use of Municipal Economic Development Funds to make a payment toward a settlement agreement was necessary for Robbins to maintain the confidence of the financial and legal community.

Given that it is questionable whether the use of Municipal Economic Development Funds to make a payment related to the settlement agreement is consistent with the intent of the Act, we will refer this matter to the Office of the Attorney General, as required under the Public Utilities Act (220 ILCS 5/8-403.1 (l)). If the Attorney General determines the payment was not authorized under the Public Utilities Act, he may recover three times the amount of the expenditure through a civil action.

Robbins developed a spending policy specifically for funds received from the Municipal Economic Development Fund. The policy, adopted February 8, 2000, basically mirrors the language in the statute, stating the statutory purposes for which funds may and may not be spent, that the Village will submit to audit by the Auditor General, and that the monies received will be held in a separate account and will not be commingled with other Village funds. The policy does not provide additional guidance to Village administrators as to what appropriate uses of Municipal Economic Development Funds may be or require a justification to show how the proposed use complies with the restrictions placed by the Public Utilities Act. Such additional controls may help ensure and more completely document that Village expenditures of Municipal Economic Development Funds comply with statutory requirements.

POLICY ON THE USE OF MEDF FUNDS	
RECOMMENDATION NUMBER 1	***Village of Robbins officials should adopt more detailed policies and procedures on allowable uses of Municipal Economic Development Funds.***
VILLAGE OF ROBBINS RESPONSE	While the Village of Robbins did not respond specifically to this recommendation, it did request that its letter to the Office of the Auditor General dated June 25, 2002, which explains the use of MEDF funds for Village expenses, be included in the audit report. The letter is included in Appendix C of this report.

OTHER ISSUES

Amendments in Public Act 92-435 require qualified solid waste energy facilities to submit monthly reports and payments to the Department of Revenue. The information to be submitted includes the amount of energy reported as sold by the facility to a utility and the amount of tax the facility owes to the State (which is deposited into the Fund). The Public Utilities Act also requires the utilities which purchase the energy to report to the Illinois Commerce Commission and the Department of Revenue on the amount of tax credit they are claiming for the purchase.

Since the Department of Revenue receives both the information from the facilities on the amounts of energy sold each month **and** the amount the utilities are claiming for having purchased it, it would seem beneficial for Department staff to compare the information to ensure that each entity is properly reporting. This could help ensure that the proper amounts are being deposited into the Municipal Economic Development Fund and that Robbins is receiving all the monies to which it is entitled. During our next compliance audit of the Department of Revenue we will review the efforts undertaken by the Department to verify that the proper amounts are being deposited into Municipal Economic Development Fund.

SCOPE AND METHODOLOGY

This audit was conducted in accordance with generally accepted government auditing standards and the audit standards promulgated by the Office of the Auditor General at 74 Ill. Adm. Code 420.310.

Robbins is the sole recipient of funds from the Municipal Economic Development Fund. The audit scope encompassed Robbins' receipt of distributions from the Municipal Economic Development Fund and any expenditure of those distributions made during calendar year 2001. The Public Utilities Act (220 ILCS 5/8-403.1) states that each annual audit of distributions from the Municipal Economic Development Fund is to cover distributions received and expenditures made from the immediately preceding year. Therefore, this audit covers quarterly distributions received and expenditures made in calendar year 2001.

We interviewed representatives of the Village of Robbins to determine existing controls over the receipt and expenditure of Municipal Economic Development Funds. We reviewed accounting worksheets and bank account statements to determine the amount of funds received and expended by Robbins. We also reviewed documentation supporting the funds expended.

The first Auditor General's audit of Robbins receipt and use of Municipal Economic Development Funds covered calendar year 1999 and was released in June 2000. There were no findings in that report. However, the audit stated that future Auditor General financial and compliance audits would address controls over receipts and disbursements into the Municipal Economic Development Fund. As a result, the financial and compliance audit of the State Treasurer – Fiscal Officer for the year ended June 30, 2000, contained a finding regarding the

Treasurer’s collection of Municipal Economic Development Funds and the untimely disbursement of those funds to Robbins. This finding was not repeated in the audit for the year ended June 30, 2001.

The Village of Robbins’ fiscal year ends April 30, and the Village's audit for the year ending April 30, 2001 had not been completed by May 2002. We did review the audit for Robbins' fiscal year ended April 30, 2000. The audit expressed no opinion on the financial statements presented in the 2000 audit due to poor internal controls.

APPENDIX A

Public Utilities Act

Public Utilities Act (220 ILCS 5/8-403.1)

Sec. 8-403.1. Electricity purchased from qualified solid waste energy facility; tax credit; distributions for economic development.

(a) It is hereby declared to be the policy of this State to encourage the development of alternate energy production facilities in order to conserve our energy resources and to provide for their most efficient use.

(b) For the purpose of this Section and Section 9-215.1, "qualified solid waste energy facility" means a facility determined by the Illinois Commerce Commission to qualify as such under the Local Solid Waste Disposal Act, to use methane gas generated from landfills as its primary fuel, and to possess characteristics that would enable it to qualify as a cogeneration or small power production facility under federal law.

(c) In furtherance of the policy declared in this Section, the Illinois Commerce Commission shall require electric utilities to enter into long-term contracts to purchase electricity from qualified solid waste energy facilities located in the electric utility's service area, for a period beginning on the date that the facility begins generating electricity and having a duration of not less than 10 years in the case of facilities fueled by landfill-generated methane, or 20 years in the case of facilities fueled by methane generated from a landfill owned by a forest preserve district. The purchase rate contained in such contracts shall be equal to the average amount per kilowatt-hour paid from time to time by the unit or units of local government in which the electricity generating facilities are located, excluding amounts paid for street lighting and pumping service.

(d) Whenever a public utility is required to purchase electricity pursuant to subsection (c) above, it shall be entitled to credits in respect of its obligations to remit to the State taxes it has collected under the Electricity Excise Tax Law equal to the amounts, if any, by which payments for such electricity exceed (i) the then current rate at which the utility must purchase the output of qualified facilities pursuant to the federal Public Utility Regulatory Policies Act of 1978, less (ii) any costs, expenses, losses, damages or other amounts incurred by the utility, or for which it becomes liable, arising out of its failure to obtain such electricity from such other sources. The amount of any such credit shall, in the first instance, be determined by the utility, which shall make a monthly report of such credits to the Illinois Commerce Commission and, on its monthly tax return, to the Illinois Department of Revenue. Under no circumstances shall a utility be required to purchase electricity from a qualified solid waste energy facility at the rate prescribed in subsection (c) of this Section if such purchase would result in estimated tax credits that exceed, on a monthly basis, the utility's estimated obligation to remit to the State taxes it has collected under the Electricity Excise Tax Law. The owner or operator shall negotiate facility operating conditions with the purchasing utility in accordance with that utility's posted standard terms and conditions for small power producers. If the Department of Revenue disputes the amount of any such credit, such dispute shall be decided by the Illinois Commerce Commission. Whenever a qualified solid waste energy facility has paid or otherwise satisfied in full the capital costs or indebtedness incurred in developing and implementing the qualified facility, the qualified facility shall reimburse the Public Utility Fund and the General Revenue Fund in the State treasury for the actual reduction in payments to those Funds caused by this subsection (d) in a manner to be determined by the Illinois Commerce Commission and based on the manner in which revenues for those Funds were reduced.

(e) The Illinois Commerce Commission shall not require an electric utility to purchase electricity from any qualified solid waste energy facility which is owned or operated by an entity that is primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy from a source other than one or more qualified solid waste energy facilities.

(f) This Section does not require an electric utility to construct additional facilities unless those facilities are paid for by the owner or operator of the affected qualified solid waste energy facility.

(g) The Illinois Commerce Commission shall require that: (1) electric utilities use the electricity purchased from a qualified solid waste energy facility to displace electricity generated from nuclear power or coal mined and purchased outside the boundaries of the State of Illinois before displacing electricity generated from coal mined and purchased within the State of Illinois, to the extent possible, and (2) electric utilities report annually to the Commission on the extent of such displacements.

(h) Nothing in this Section is intended to cause an electric utility that is required to purchase power hereunder to incur any economic loss as a result of its purchase. All amounts paid for power which a utility is required to purchase pursuant to subparagraph (c) shall be deemed to be costs prudently incurred for purposes of computing charges under rates authorized by Section 9-220 of this Act. Tax credits provided for herein shall be reflected in charges made pursuant to rates so authorized to the extent such credits are based upon a cost which is also reflected in such charges.

(i) Beginning in February 1999 and through January 2009, each qualified solid waste energy facility that sells electricity to an electric utility at the purchase rate described in subsection (c) shall file with the Department of Revenue on or before the 15th of each month a form, prescribed by the Department of Revenue, that states the number of kilowatt hours of electricity for which payment was received at that purchase rate from electric utilities in Illinois during the immediately preceding month. This form shall be accompanied by a payment from the qualified solid waste energy facility in an amount equal to six-tenths of a mill ($0.0006) per kilowatt hour of electricity stated on the form. Beginning on the effective date of this Amendatory Act of the 92nd General Assembly, a qualified solid waste energy facility must file the form required under this subsection (i) before the 15th of each month regardless of whether the facility received any payment in the previous month. Payments received by the Department of Revenue shall be deposited into the Municipal Economic Development Fund, a trust fund created outside the State treasury. The State Treasurer may invest the moneys in the Fund in any investment authorized by the Public Funds Investment Act, and investment income shall be deposited into and become part of the Fund. Moneys in the Fund shall be used by the State Treasurer as provided in subsection (j). The obligation of a qualified solid waste energy facility to make payments into the Municipal Economic Development Fund shall terminate upon either: (1) expiration or termination of a facility's contract to sell electricity to an electric utility at the purchase rate described in subsection (c); or (2) entry of an enforceable, final, and non-appealable order by a court of competent jurisdiction that Public Act 89-448 is invalid. Payments by a qualified solid waste energy facility into the Municipal Economic Development Fund do not relieve the qualified solid waste energy facility of its obligation to reimburse the Public Utility Fund and the General Revenue Fund for the actual reduction in payments to those Funds as a result of credits received by electric utilities under subsection (d).

A qualified solid waste energy facility that fails to timely file the requisite form and payment as required by this subsection (i) shall be subject to penalties and interest in conformance with the provisions of the Illinois Uniform Penalty and Interest Act.

Every qualified solid waste energy facility subject to the provisions of this subsection (i) shall keep and maintain records and books of its sales pursuant to subsection (c), including payments received from those sales and the corresponding tax payments made in accordance with this subsection (i), and for purposes of enforcement of this subsection (i) all such books and records shall be subject to inspection by the Department of Revenue or its duly authorized agents or employees.

When a qualified solid waste energy facility fails to file the form or make the payment required under this subsection (i), the Department of Revenue, to the extent that it is practical, may enforce the payment obligation in a manner consistent with Section 5 of the Retailers' Occupation Tax Act, and if necessary may impose and enforce a tax lien in a manner consistent with Sections 5a, 5b, 5c, 5d, 5e, 5f, 5g, and 5i of the Retailers' Occupation Tax Act. No tax lien may be imposed or enforced, however, unless a qualified solid waste energy facility fails to make the payment required under this subsection (i). Only to the extent necessary and for the purpose of enforcing this subsection (i), the Department of Revenue may secure necessary information from a qualified solid waste energy facility in a manner consistent with Section 10 of the Retailers' Occupation Tax Act.

All information received by the Department of Revenue in its administration and enforcement of this subsection (i) shall be confidential in a manner consistent with Section 11 of the Retailers' Occupation Tax Act. The Department of Revenue may adopt rules to implement the provisions of this subsection (i).

For purposes of implementing the maximum aggregate distribution provisions in subsections (j) and (k), when a qualified solid waste energy facility makes a late payment to the Department of Revenue for deposit into the Municipal Economic Development Fund, that payment and deposit shall be attributed to the month and corresponding quarter in which the payment should have been made, and the Treasurer shall make retroactive distributions or refunds, as the case may be, whenever such late payments so require.

(j) The State Treasurer, without appropriation, must make distributions immediately after January 15, April 15, July 15, and October 15 of each year, up to maximum aggregate distributions of $500,000 for the distributions made in the 4 quarters beginning with the April distribution and ending with the January distribution, from the Municipal Economic Development Fund to each city, village, or incorporated town that has within its boundaries an incinerator that:

(1) uses or, on the effective date of Public Act 90-813, used municipal waste as its primary fuel to generate electricity;

(2) was determined by the Illinois Commerce Commission to qualify as a qualified solid waste energy facility prior to the effective date of Public Act 89-448; and

(3) commenced operation prior to January 1, 1998.

Total distributions in the aggregate to all qualified cities, villages, and incorporated towns in the 4 quarters beginning with the April distribution and ending with the January distribution shall not exceed $500,000. The amount of each distribution shall be determined pro rata based on the population of the city, village, or incorporated town compared to the total population of all cities, villages, and incorporated towns eligible to receive a distribution. Distributions received by a city, village, or incorporated town must be held in a separate account and may be used only to promote and enhance industrial, commercial, residential, service, transportation, and recreational activities and facilities within its boundaries, thereby enhancing the employment opportunities, public health and general welfare, and economic development within the community, including administrative expenditures exclusively to further these activities. These funds, however, shall not be used by the city, village, or incorporated town, directly or indirectly, to purchase, lease, operate, or in any way subsidize the operation of any incinerator, and these funds shall not be paid, directly or indirectly, by the city, village, or incorporated town to the owner, operator, lessee, shareholder, or bondholder of any incinerator. Moreover, these funds shall not be used to pay attorneys fees in any litigation relating to the validity of Public Act 89-448. Nothing in this Section prevents a city, village, or incorporated town from using other corporate funds for any legitimate purpose. For purposes of this subsection, the term "municipal waste" has the meaning ascribed to it in Section 3.21 of the Environmental Protection Act.

(k) If maximum aggregate distributions of $500,000 under subsection (j) have been made after the January distribution from the Municipal Economic Development Fund, then the balance in the Fund shall be refunded to the qualified solid waste energy facilities that made payments that were deposited into the Fund during the previous 12-month period. The refunds shall be prorated based upon the facility's payments in relation to total payments for that 12-month period.

(l) Beginning January 1, 2000, and each January 1 thereafter, each city, village, or incorporated town that received distributions from the Municipal Economic Development Fund, continued to hold any of those distributions, or made expenditures from those distributions during the immediately preceding year shall submit to a financial and compliance and program audit of those distributions performed by the Auditor General at no cost to the city, village, or incorporated town that received the distributions. The audit should be completed by June 30 or as soon thereafter as possible. The audit shall be submitted to the State Treasurer and those officers enumerated in Section 3-14 of the Illinois State Auditing Act. If the Auditor General finds that distributions have been expended in violation of this Section, the Auditor General shall refer the matter to the Attorney General. The Attorney General may recover, in a civil action, 3 times the amount of any distributions illegally expended. For purposes of this subsection, the terms "financial audit," "compliance audit", and "program audit" have the meanings ascribed to them in Sections 1-13 and 1-15 of the Illinois State Auditing Act.

(Source: P.A. 91-901, eff. 1-1-01; 92-435, eff. 8-17-01.)

APPENDIX B

Independent Auditors Report

SPRINGFIELD OFFICE:
ILES PARK PLAZA
740 EAST ASH · 62703-3154
PHONE: 217/782-6046
FAX: 217/785-8222 • TDD: 217/524-4646

CHICAGO OFFICE:
STATE OF ILLINOIS BUILDING · SUITE S-900
160 NORTH LASALLE · 60601-3103
PHONE: 312/814-4000
FAX: 312/814-4006

OFFICE OF THE AUDITOR GENERAL
WILLIAM G. HOLLAND

INDEPENDENT AUDITORS REPORT

Honorable William G. Holland
Auditor General
State of Illinois

We have audited the accompanying statements of cash receipts to the Village of Robbins from the State Municipal Economic Development Fund and cash disbursements made by the Village of Robbins from those cash receipts for the year ended December 31, 2001. These financial statements are the responsibility of the management of the Village of Robbins. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

As described in Note 1, these financial statements were prepared on the basis of cash receipts and disbursements, which is a comprehensive basis of accounting other than generally accepted accounting principles.

In our opinion, the financial statements referred to above present fairly, in all material respects, the cash receipts to the Village of Robbins from the State Municipal Economic Development Fund and the cash disbursements made by the Village of Robbins from those cash receipts for the year ended December 31, 2001, on the basis of accounting described in Note 1.

Bruce L. Bullard
BRUCE L. BULLARD, CPA
Compliance Audit Director

May 30, 2002

INTERNET ADDRESS: AUDITOR@MAIL.STATE.IL.US

VILLAGE OF ROBBINS
STATEMENTS OF CASH RECEIPTS FROM
THE STATE MUNICIPAL ECONOMIC DEVELOPMENT FUND AND
CASH DISBURSEMENTS FROM THOSE CASH RECEIPTS
FOR THE YEAR ENDED DECEMBER 31, 2001

	Year Ended December 31, 2001
CASH RECEIPTS:	
Cash Receipts from the State Municipal Economic Fund	$263,184.37
Interest Income	5,369.68
Total	$268,554.05
CASH DISBURSEMENTS:	
Cash Disbursements from Receipts from the State Municipal Economic Development Fund	$417,771.67
(Deficiency) Cash Receipts Over Cash Disbursements	($149,217.62)
Cash Balance at Beginning of Period	$154,028.09
Cash Balance at End of Period	$4,810.47

NOTE TO THE FINANCIAL STATEMENTS

Note 1 – Significant Accounting Policies

The accompanying financial statements have been prepared on the cash receipts and disbursements basis of accounting, which is a comprehensive basis of accounting other than generally accepted accounting principles. Under that basis, the only asset recognized is cash, and no liabilities are recognized. All transactions are recognized as either cash receipts or disbursements, and non-cash transactions are not recognized. The cash basis differs from generally accepted accounting principles primarily because the effects of interest earned, other receivables, and obligations unpaid at the date of the financial statements are not included in the financial statements.

APPENDIX C

Village of Robbins Response

Village of Robbins

INCORPORATED DECEMBER 14, 1917
3327 West 137th Street Robbins, Illinois 60472
Phone (708) 385-8940 Fax (708) 385-8949

VIA FACSIMILE

August 12, 2002

Mr. William Helton
Audit Manager
Office of the Auditor General
160 North LaSalle Street
Chicago, IL 60601-3103

RE: **Financial, Compliance, and Program Audit**
Village of Robbins Use of Municipal Economic Development Funds

Dear Mr. Helton:

This letter is a response to the draft of the Financial, Compliance, and Program Audit for the year ending December 31, 2001. I would like my letter addressed to you and dated June 25, 2002 to be included as an exhibit to the audit report. Thank you for your consideration.

Sincerely,

Beverly J. Gavin

Beverly J. Gavin
Village Administrator

ROBBINS, ILLINOIS
ACHIEVEMENT THROUGH COMMUNITY SPIRIT

VILLAGE OF ROBBINS

INCORPORATED DECEMBER 14, 1917
3327 WEST 137TH STREET • ROBBINS, ILLINOIS 60472
PHONE (708) 385-8940 • FAX (708) 385-8949

DR. IRENE H. BRODIE
MAYOR
PALMA L. JAMES
CLERK

June 25, 2002

Mr. William Helton
Audit Manager
Office of the Auditor General
160 North LaSalle Street
Chicago, IL 60601-3103

Dear Mr. Helton:

This letter is a response to your request to explain the use of the MEDF for a payment of the settlement agreement for the Banks lawsuit. It has been our policy to follow the guidelines of the Public Utilities Act with your assistance and interpretation. The Village has passed the two previous audits with flying-colors. I appreciate the compliments that you have given to Robbins for being well-organized with the proper documentation to support our corporate expenditures.

During the previous audit periods, Robbins relied heavily upon the income from the Facility. The income received represented in excess of 45% of the annual budget of the Village of Robbins. As a result, of the income to the Village, improvements were made in the police, fire, and public works departments. New and better-trained personnel were hired; more efficient and effective equipment was acquired. The Facility ceased operations in 2001. The financial event had a significant negative impact on the Village's ability to function.

Through rigorous financial controls and a forward-looking administration, the Village is sustaining itself and has developed a business plan to secure absolute ownership of the Facility for the Village and to bring in partners who have a stake in the success of the Village and the success of the new business enterprise. It is crucial for Robbins to maintain the confidence of the financial and legal community to move ahead and to insure success of the Village Plan. If the Village does not succeed with this Plan, its ability to meet public health and general welfare obligations will be a tremendous challenge.

The Public Utilities Act sets restrictions on how the Village can use the MEDF distributions. We believe that Robbins' use of the fund is consistent with the Public Utilities Act guidelines. Robbins did not violate any of the "shall not" statements contained within the Act. The funds were used to pay a settlement payment of a lawsuit, which is totally unrelated to any of the "shall not" statements contained within the Act.

The lawsuit payment is consistent with a phrase within the Act that states "...including administrative expenditures exclusively to further these activities. Timely payment of the lawsuit has allowed Village Attorney William Mansker to remain focused on development of the previously mentioned business plan. We decided his time is better spent focusing on a plan the redevelops the largest industrial project in the history of Robbins.

The Plan includes the acquisition in fee simple ownership of the former Robbins Refuse Recovery Partners Facility. The Village has a unique and expansive opportunity to participate in the waste disposal industry with one of the premier waste companies. Robbins is negotiating with Allied Waste Industries, Inc. ("Allied"). Allied is the second largest waste management company in the United States, with a strong presence in the Midwest through various subsidiaries.

The Village's ability to sustain itself has allowed administrative staff to develop the following additional projects.

1. Total reconstruction of 137th Street. Construction is on going.
2. Water meter installation. This is an active project with 1/3 of the Village complete.
3. Construction of $7 million Senior Assisted Living Facility. This four story, 125-apartment complex will be complete in August 2002. There will be approximately 25 jobs created.
4. Construction of $6 million Independent Living Facility built by Catholic Charities. The construction will begin in September 2002.
5. The Village entered into an agreement with JT Homes to build 50 moderate to low-income residential housing units. The construction will begin Spring, 2003.
6. The Village just completed a Transit Oriented Development Study with the use of RTA funds. The consultants have developed a plan to improve the Metra train station now under utilized in Robbins.
7. The Village applied and received the Governors Green Communities Grant for $110,000.

The MEDF has given the Village the ability to pursue projects that enhance industrial, commercial, residential, service, transportation and recreational activities within its boundaries which is consistent with the spirit of the Public Utilities Act. We appreciate your consideration and hope that you will continue to assist Robbins with its goal to rise to the self-sufficient level of our neighboring communities. I will be available to provide proof of any of the projects mentioned within this letter.

Thank you for your help and consideration.

Sincerely,

Beverly J. Gavin

Beverly J. Gavin
Village Administrator