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STATE OF ILLINOIS

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OFFICE OF THE AUDITOR GENERAL

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FINANCIAL, COMPLIANCE, AND PROGRAM AUDIT

THE VILLAGE OF ROBBINS' USE OF  
MUNICIPAL ECONOMIC DEVELOPMENT FUNDS

SEPTEMBER 2003

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WILLIAM G. HOLLAND

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AUDITOR GENERAL

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OFFICE OF THE AUDITOR GENERAL  
WILLIAM G. HOLLAND

*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, 2002.

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.

A handwritten signature in black ink, appearing to read "W. G. Holland", written over a faint circular stamp.

WILLIAM G. HOLLAND  
Auditor General

Springfield, Illinois  
September 2003

## REPORT DIGEST

FINANCIAL, COMPLIANCE,  
AND PROGRAM AUDIT  
OF THE

**VILLAGE OF ROBBINS'  
USE OF  
MUNICIPAL  
ECONOMIC  
DEVELOPMENT FUNDS**

Released: September 2003



State of Illinois  
Office of the Auditor General

**WILLIAM G. HOLLAND**  
AUDITOR GENERAL

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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 the facilities sold to electric utilities.

Each audit is to be for distributions from the Fund for the immediately preceding year. This is the fourth audit conducted under this requirement. This audit covers distributions from the Fund during calendar year 2002.

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

- Robbins received \$374,067 in quarterly disbursements from the Fund in 2002. Our review of documentation provided by Robbins concluded that most calendar year 2002 expenditures, which totaled \$411,464, appeared to be consistent with Public Utilities Act guidelines.
- We questioned whether an expenditure for \$12,715 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.
- In our previous audit, we recommended that Robbins adopt more detailed spending policies and procedures on allowable uses of Municipal Economic Development Funds. Robbins officials provided a revised detailed spending policy to address concerns raised; this policy was adopted by Village trustees on July 22, 2003.



## REPORT CONCLUSIONS

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The Village of Robbins is the only entity to receive distributions from the Municipal Economic Development Fund. In calendar year 2002, Robbins' cash receipts from the Municipal Economic Development Fund (MEDF) totaled \$374,067. Robbins earned \$186 in interest income and reimbursed the MEDF account for previous expenditures totaling \$35,000. Robbins' cash disbursements from the Fund receipts totaled \$411,464 in calendar year 2002. Robbins began calendar year 2002 with a cash balance of \$4,810 in its bank account for Municipal Economic Development Funds and ended the year with a balance of \$2,600 in the account.

Based on our review of documentation provided by the Village of Robbins, we concluded that Robbins' calendar year 2002 expenditures of Fund receipts generally appeared to be consistent with Public Utilities Act requirements. Specific disbursements were made for employee payroll and health insurance expenses; Village water expenses; legal services; appraisals of properties within the Village; and other general Village expenses including an annual festival, routine maintenance, and repairs.

As in our prior audit of 2001 expenditures, we questioned whether one expenditure made in 2002 met the Public Utilities Act's guidelines. That expenditure was a \$12,715 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 the lawsuit settlement payment in 2002 preceded our fieldwork for the 2001 audit, and no settlement payments had been made since we raised the issue in May 2002. They stated that Robbins' use of the MEDF distributions is consistent with the Public Utilities Act, noting that funds were not used for any purpose specifically prohibited by the Act.

We referred the questionable expenditure from the audit of 2001 expenditures to the Office of the Attorney General in August 2002, as required by the Public Utilities Act. As of August 2003, the Attorney General's office had not yet completed its review of this expenditure to determine whether it complied with Public Utilities Act requirements. Therefore, we will also refer the lawsuit settlement payment made during 2002 to the Office of the Attorney General for review.

In our prior audit, we recommended that the Village adopt more detailed policies and procedures to ensure that Municipal Economic Development Funds are used consistently with the requirements of the Public Utilities Act. In July 2003, Village officials adopted a more detailed spending policy on the use of Municipal Economic Development Funds.

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### **THE MUNICIPAL ECONOMIC DEVELOPMENT FUND**

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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. Each qualified facility must make payments of \$0.0006 per kilowatt hour of electricity it produces and sells to the 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 2002 totaling \$374,067 (see Digest Exhibit 1). Robbins earned \$186 in interest income on the funds received and repaid its MEDF account for prior disbursements totaling \$35,000. These prior disbursements had been used to pay other Village expenses. Digest Exhibit 1 also shows that Robbins disbursed \$411,464 in Municipal Economic Development Fund receipts during calendar year 2002.

<b>Digest Exhibit 1 ROBBINS' RECEIPT AND DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS (Calendar Year 2002)</b>	
Fund Distribution Received 01/02:	\$ 60,512
Fund Distribution Received 04/02:	\$103,977
Fund Distribution Received 07/02:	\$138,743
Fund Distribution Received 10/02:	\$ 70,835
Interest Income:	\$ 186
Other Income	*\$ 35,000
Total CY 02 Cash Receipts:	\$409,253
 Total CY 02 Cash Disbursements:	 \$411,464
(Deficiency) of Cash Receipts Over Cash Disbursements:	\$ (2,210)
 Cash Balance End of CY01:	 \$ 4,810
 Cash Balance as of 12/31/02:	 \$ 2,600
Note: Figures rounded to nearest dollar. Totals may not add due to rounding. * Other Village funds reimbursed \$35,000 to the MEDF account during CY02. Source: Village of Robbins.	

Specific disbursements were made for employee payroll and health insurance expenses, Village water expenses, appraisals of Village property, payment to a plaintiff in a lawsuit against the Village, the Village's annual festival, acquisition of legal services, and general Village expenses. General expenses included repair of police and fire vehicles, telephone bills, and office supplies. Digest Exhibit 2 summarizes the amount and purpose

**Robbins was the only entity to receive distributions from the Municipal Economic Development Fund.**  
**Robbins received \$374,067 from the Fund and earned \$186 in interest income in calendar year 2002.**  
**Robbins disbursed \$411,464 in Fund receipts during calendar year 2002.**

for Robbins' cash disbursements from the Municipal Economic Development Fund during calendar year 2002.

**Digest Exhibit 2**  
**VILLAGE OF ROBBINS' DISBURSEMENT OF**  
**MUNICIPAL ECONOMIC DEVELOPMENT FUNDS**  
**(Calendar Year 2002)**

<b>Amount</b>	<b>Purpose</b>
\$251,671	Village employee payroll expenses
\$63,027	Village water bills paid to City of Chicago
\$33,506	General Village expenses
\$20,918	Village insurance premiums and deductibles
\$15,000	Village annual festival
\$12,715	Lawsuit settlement payment
\$6,000	Property appraisal services
\$5,000	Village audit for year ended April 30, 2000
\$3,627	Legal services related to delinquent tax properties
<u>\$411,464</u>	Total Disbursements
Note: Figures rounded to nearest dollar. Total may not add due to rounding. Source: Village of Robbins.	

Based on our review of documentation provided by the Village of Robbins, we concluded that most of Robbins' calendar year 2002 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 payment for \$12,715 was the final payment of a \$33,000 settlement reached in October 1998. In our previous audit (of calendar year 2001), we questioned a similar payment of \$46,000 to settle a different lawsuit.

Village officials stated that Robbins' use of the MEDF distributions for the lawsuit settlement agreement is consistent with the Public Utilities Act.

In August 2002, we referred the questionable payment from the audit of calendar year 2001 to the Attorney General, as required by the Public Utilities Act. As of August 2003, the Attorney General's office had not yet completed its review of that payment to determine if it was consistent with the provisions of the Public Utilities Act. Consequently, we will refer the \$12,715 settlement agreement payment made in calendar year 2002 to the Attorney General for review.



In our previous audit, we recommended that Robbins adopt more detailed policies and procedures on allowable uses of Municipal Economic Development Funds. Robbins officials provided a revised detailed spending policy to address concerns raised; this policy was adopted by Village trustees on July 22, 2003. (pages 3-6)

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**In July 2003,  
Robbins adopted a  
detailed spending  
policy.**

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### **AGENCY RESPONSE**

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The Village of Robbins' response to the audit states that it believes all expenditures were in compliance with the Public Utilities Act. The full text of the response is included as Appendix C of the report.



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WILLIAM G. HOLLAND  
Auditor General

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## Financial, Compliance, and Program Audit

### VILLAGE OF ROBBINS' USE OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS (For the Year Ended December 31, 2002)

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#### REPORT CONCLUSIONS

The Village of Robbins is the only entity to receive distributions from the Municipal Economic Development Fund. In calendar year 2002, Robbins' cash receipts from the Municipal Economic Development Fund (MEDF) totaled \$374,067. Robbins earned \$186 in interest income and reimbursed its MEDF account for previous expenditures totaling \$35,000. Robbins' cash disbursements from MEDF receipts totaled \$411,464 in calendar year 2002. Robbins began calendar year 2002 with a cash balance of \$4,810 in its bank account for Municipal Economic Development Funds and ended the year with a balance of \$2,600 in the account.

Based on our review of documentation provided by the Village of Robbins, we concluded that Robbins' calendar year 2002 expenditures of MEDF receipts generally appeared to be consistent with Public Utilities Act requirements. Specific disbursements were made for employee payroll and health insurance expenses; Village water expenses; legal services; appraisals of properties within the Village; and other general Village expenses including an annual festival, routine maintenance, and repairs.

As in our prior audit of 2001 expenditures, we questioned whether one expenditure made in 2002 met the Public Utilities Act's guidelines. That expenditure was a \$12,715 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 the lawsuit settlement payment in 2002 preceded our fieldwork for the 2001 audit, and no settlement payments had been made since we raised the

issue in May 2002. They stated that Robbins' use of the MEDF distributions is consistent with the Public Utilities Act, noting that funds were not used for any purpose specifically prohibited by the Act.

We referred the questionable expenditure from the audit of 2001 expenditures to the Office of the Attorney General in August 2002, as required by the Public Utilities Act. As of August 2003, the Attorney General's office had not yet completed its review of this expenditure to determine whether it complied with Public Utilities Act requirements. Therefore, we will also refer the lawsuit settlement payment made during 2002 to the Office of the Attorney General for review.

In our prior audit, we recommended that the Village adopt more detailed policies and procedures to ensure that Municipal Economic Development Funds are used consistently with the requirements of the Public Utilities Act. In July 2003, Village officials adopted a more detailed spending policy on the use of Municipal Economic Development Funds.

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## **BACKGROUND**

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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 fourth audit conducted under this requirement. The first audit, released in June 2000, covered calendar year 1999; subsequent audits have covered the subsequent calendar year 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.

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## **THE MUNICIPAL ECONOMIC DEVELOPMENT FUND**

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The Public Utilities Act was amended in January 1999 to create the Municipal Economic Development Fund. The Municipal Economic Development Fund (MEDF) 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 MEDF 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.

As shown in Exhibit 1-1, Robbins has received \$895,076 in distributions from the Municipal Economic Development Fund since it 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.

<b>Exhibit 1-1</b>					
<b>AMOUNTS RECEIVED FROM MUNICIPAL ECONOMIC DEVELOPMENT FUND AND SPENT BY VILLAGE OF ROBBINS</b>					
<b>Calendar Years 1999 - 2002</b>					
	CY99	CY00	CY01	CY02	TOTAL
Fund Distributions	\$61,628	\$196,197	\$263,184	\$374,067	\$895,076
Interest	\$0	\$6,863	\$5,370	\$186	\$12,419
Total Income	\$61,628	\$203,060	\$268,554	*\$409,253	*\$942,495
Amounts Spent	\$0	\$110,660	\$417,772	\$411,464	\$939,896
* Includes \$35,000 in reimbursements to MEDF account from other Village funds for previous expenditures in 2001 and 2002.					
Source: Information provided by Village of Robbins, State Comptroller, and prior OAG audits.					

**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 2002 totaling \$374,067. Robbins earned an additional \$186 in interest income on the funds received. In addition, the Village recorded other deposits to the MEDF account totaling \$35,000 which resulted in total cash receipts of \$409,253 for calendar year 2002.

The \$35,000 in other income shown in Exhibit 1-2 was reimbursements from other Village funds to the account for previous expenditures. A \$25,000 deposit was made to reimburse the account for an expenditure made for street improvements in 2001. Another \$10,000 was reimbursed for an expenditure to the Illinois Public Treasurer's Investment Pool (IPTIP) made in early 2002.

Exhibit 1-2 also shows that Robbins disbursed \$411,464 in MEDF receipts during calendar year 2002. 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:

- 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.

<b>Exhibit 1-2 VILLAGE OF ROBBINS' RECEIPT AND DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS Calendar Year 2002</b>	
Fund Distribution Received 01/02:	\$60,512
Fund Distribution Received 04/02:	\$103,977
Fund Distribution Received 07/02:	\$138,743
Fund Distribution Received 10/02:	\$70,835
Interest Income:	\$186
Other Income:	<u>*\$35,000</u>
Total CY 02 Cash Receipts:	\$409,253
Total CY 02 Cash Disbursements:	<u>\$411,464</u>
(Deficiency) of Cash Receipts Over Cash Disbursements:	\$(2,210)
Cash Balance End of CY01:	\$4,810
Cash Balance as of 12/31/02:	<u>\$2,600</u>
Notes: Figures rounded to nearest dollar. Totals may not add due to rounding. * Other Village funds reimbursed \$35,000 to the MEDF account during CY02. Source: Village of Robbins.	

- 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 2002 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 employee payroll and health insurance expenses, Village water expenses, appraisals of Village property, payment to a plaintiff in a lawsuit against the Village, the Village's annual festival, acquisition of legal services, and general Village expenses. The general expenses included repair of fire and police vehicles, telephone bills, office supplies, and general maintenance. Exhibit 1-3 shows in detail the amount and purpose for each of Robbins' cash disbursements from the MEDF account during calendar year 2002.

<b>Exhibit 1-3 VILLAGE OF ROBBINS' DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS Calendar Year 2002</b>	
<b>Amount</b>	<b>Purpose</b>
\$251,671	Village employee payroll expenses
\$63,027	Village water bills paid to City of Chicago
\$33,506	General Village expenses
\$20,918	Village insurance premiums and deductibles
\$15,000	Village annual festival
\$12,715	Lawsuit settlement payment
\$6,000	Property appraisal services
\$5,000	Village audit for year ended April 30, 2000
\$3,627	Legal services related to delinquent tax properties
<u>\$411,464</u>	Total Disbursements
Note: Figures rounded to nearest dollar. Total may not add due to rounding. Source: Village of Robbins.	

Based on our review of documentation provided by the Village of Robbins, we concluded that most of Robbins' calendar year 2002 expenditures of MEDF 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 \$33,000 settlement was reached in October 1998 and the 2002 payment for \$12,715 was the final settlement payment. In the previous audit (of calendar year 2001), we questioned a similar payment of \$46,000 to settle a different lawsuit.

In response to the audit of calendar year 2001, Village officials stated that Robbins' use of the MEDF distributions for the lawsuit settlement agreement is consistent with the Public Utilities Act; they noted that Robbins did not use the funds for any purpose specifically

prohibited by the Act. Further, officials said that the lawsuit payment is consistent with the Act's provision to allow administrative expenditures to further allowable activities.

When questioned about the similar expenditure in 2002, officials stated that it had occurred early in 2002, before our visit in May 2002 when we questioned the 2001 lawsuit payment as part of our prior audit; they further stated no other such payments had been made since that time.

Since 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)). In August 2002, we referred the 2001 lawsuit expenditure to the Office of the Attorney General for review. As of August 2003, the Attorney General's office had not yet completed its determination as to whether the Village's use of MEDF monies to pay for a lawsuit settlement was consistent with the provisions of the Public Utilities Act. If the Attorney General determines the payment was not authorized under the Public Utilities Act, she may recover three times the amount of the expenditure through a civil action.

Robbins adopted a spending policy for funds from the Municipal Economic Development Fund on February 8, 2000. It basically mirrored the statutory language and did not provide guidance on acceptable expenditures or require justification of how the expenditures comply with the Public Utilities Act guidelines. We recommended in the audit of 2001 expenditures that such a policy could help ensure that all expenditures met statutory requirements.

On July 22, 2003, Village Trustees adopted a revised, detailed spending policy that addresses the issues raised above. It states that the proceeds from MEDF will be used to attract businesses and support public goods and services and activities that constitute Village major operations. Further, it lists classifications for MEDF expenditures and adds provisions for reimbursement from other Village funds when appropriate.

The Village's response to this audit states that it believes that all expenditures were in compliance with the Public Utilities Act. It also states that no lawsuit settlement payments have been made since OAG raised the issue in May 2002. For the full text of the Village of Robbins response, see Appendix C.

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## OTHER ISSUES

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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 MEDF). 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.



The Department may assess penalties and fees for failure to file the information required or for filing late. In the next audit, we will examine the Department's assessment process.

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## SCOPE AND METHODOLOGY

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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 MEDF and any expenditure of those distributions made during calendar year 2002. The Public Utilities Act (220 ILCS 5/8-403.1) states that each annual audit of distributions from the MEDF 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 2002.

We interviewed representatives 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. An Independent Auditors Report on the cash activity in the Village's MEDF account is included in Appendix B.

The Village of Robbins' fiscal year ends April 30, and the Village's audit for the year ending April 30, 2002 had not been completed by May 2003. We did review the audit for Robbins' fiscal year ended April 30, 2001. That audit noted various instances of non-compliance and questioned costs, but concluded that the financial statements were fairly presented with the noted exceptions.



## **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 92<sup>nd</sup> 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 3.290 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**



## INDEPENDENT AUDITORS REPORT

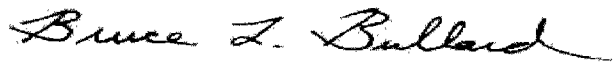
Honorable William G. Holland  
Auditor General  
State of Illinois

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, 2002. 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 auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. 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, 2002, on the basis of accounting described in Note 1.



BRUCE L. BULLARD, CPA  
Compliance Audit Director

June 20, 2003

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, 2002

Year Ended  
December 31, 2002

CASH RECEIPTS:

Cash Receipts from the State Municipal Economic Fund	\$374,066.99
Interest Income	\$186.29
Repayments to Fund from other Village Funds	<u>\$35,000.00</u>
Total	\$409,253.28

CASH DISBURSEMENTS:

Cash Disbursements from Receipts from the State Municipal Economic Development Fund	<u>\$411,463.51</u>
(Deficiency) Cash Receipts Over Cash Disbursements	(\$2,210.23)
Cash Balance at Beginning of Period	<u>\$4,810.47</u>
Cash Balance at End of Period	<u><u>\$2,600.24</u></u>

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## **NOTE TO THE FINANCIAL STATEMENTS**

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### **Note 1 – Significant Accounting Policies**

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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.

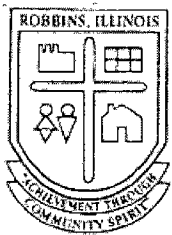


## **APPENDIX C**

# **Village of Robbins Response**







Dr. Irene H. Brodie  
Mayor  
Palma L. James  
Clerk

# VILLAGE OF ROBBINS

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

## Trustees

Willie E. Carter  
Richard Williams  
Gregory Wright  
James E. Coffey, Sr.  
Lynn D. Johnson  
Adele F. Sharp

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August 20, 2003

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 above name audit report for the calendar year ending December 31, 2002. The MEDF funds were used for a variety of purposes as stated in your audit report. However, we believe that all of the calendar year 2002 expenditures of MEDF receipts comply with the Public Utilities Act guidelines.

A single payment of \$12,715 to a plaintiff in a lawsuit is in question by your office. The expenditure was made prior to meeting with OAG in May 2002. No additional payments have been made from MEDF toward settlement of outstanding lawsuits as per a recommendation from your office during the 2001 audit process.

Thank you for your assistance during this audit process.

Sincerely,

Beverly J. Gavin

Beverly J. Gavin  
Village Administrator