# STATE OF ILLINOIS

# OFFICE OF THE AUDITOR GENERAL

## FINANCIAL, COMPLIANCE, AND PROGRAM AUDIT
OF THE
## THE VILLAGE OF ROBBINS' USE OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS

NOVEMBER 2014

WILLIAM G. HOLLAND

AUDITOR GENERAL

SPRINGFIELD OFFICE:
ILES PARK PLAZA
740 EAST ASH • 62703-3154
PHONE: 217/782-6046
FAX: 217/785-8222 • TTY: 888/261-2887
FRAUD HOTLINE: 1-855-217-1895

CHICAGO OFFICE:
MICHAEL A. BILANDIC BLDG. • SUITE S-900
160 NORTH LASALLE • 60601-3103
PHONE: 312/814-4000
FAX: 312/814-4006
FRAUD HOTLINE: 1-855-217-1895

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, 2013.

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
November 2014

STATE OF ILLINOIS
OFFICE OF THE
AUDITOR GENERAL
William G. Holland, Auditor General

## SUMMARY REPORT DIGEST

# VILLAGE OF ROBBINS' USE OF MUNICIPAL ECONOMIC DEVELOPMENT FUND MONIES

**FINANCIAL, COMPLIANCE, & PROGRAM AUDIT**
**For the Year Ended: December 31, 2013**

**Release Date: November 2014**

## 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 (MEDF). Qualified solid waste energy facilities were required to pay into the Fund $0.0006 per kilowatt hour of electricity the facilities sold to electric utilities; this requirement expired in January 2013.

Each audit is to be for distributions from the Fund for the immediately preceding year. This is the fifteenth audit conducted under this requirement. This audit covers distributions from the Fund during calendar year 2013. The Village of Robbins was the only entity to receive distributions from the Fund. The audit concluded that:

- In 2013, Robbins received $227,048.04 in disbursements from the Fund.

- Robbins used these monies for employee payroll, insurance expenses, payment on a fire truck, and general Village expenses. Based on our review of documentation provided by the Village of Robbins, we concluded that Robbins' calendar year 2013 expenditures of MEDF receipts appeared to be consistent with Public Utilities Act requirements.

- Robbins officials failed to recognize they had received nearly $220,000 in MEDF monies in 2013 because the monies were electronically deposited into another Village account. Consequently, Robbins failed to keep the funds in a "separate account" as required by the Public Utilities Act. We recommended that Robbins strengthen its internal controls and hold all MEDF monies in a separate account.

- The Department of Revenue continued to collect payments from a qualified solid waste energy facility (QSWEF) for deposit into the MEDF after the requirement expired in January 2013. The monies totaling $34,429.52 were distributed to Robbins. The Department had refunded most but not all of the payments made after January 2013 to the QSWEF. We recommended that Revenue should: strengthen controls to ensure that taxes are not collected from taxpayers when a tax has expired; notify the QSWEF of the remaining overpayment; and determine whether the amounts paid to Robbins should be recovered by the State, and if so, the means by which this should be accomplished.

## 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 to receive and maintain payments from qualified solid waste energy facilities that sell electricity to electric utilities. Each qualified facility was required to make payments of $0.0006 per kilowatt hour of electricity it produced and sold to the electric utilities. The facilities made payments to the Department of Revenue, which deposited the payments into the Fund. The Department could assess penalties and interest if the facilities did not submit the payments.

Amendments added by Public Act 94-836 required that the Treasurer compare the monthly amount received to the amount received for the corresponding month in 2002. If the amount received in 2002 was greater, the difference was to be transferred from the General Revenue Fund to the MEDF. Since this requirement expired in January 2013, only $23,815.44 was transferred from the General Revenue Fund to the MEDF in 2013.

The State Treasurer is required to make quarterly distributions from the Fund to each eligible municipality. Prior to August 2009, an eligible city, village, or incorporated town had to have 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 ICC 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.

Public Act 96-449, effective August 14, 2009, changed the requirements for a municipality that is eligible to receive funds. An eligible municipality now must be located in Cook County and must have "approved construction of an incinerator within its boundaries that will burn recovered wood processed for fuel to generate electricity." An official at IEPA confirmed that the plant in Robbins was the only place in Cook County that had applied for and received an IEPA permit that meets the statutory criteria. However, that permit has now expired and construction of the incinerator has stopped. (pages 2–4)

## EXPENDITURE OF FUNDS FROM THE MUNICIPAL ECONOMIC DEVELOPMENT FUND

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

**Robbins received $227,048.04 from the Fund and earned $1.43 in interest income in calendar year 2013.**

**Robbins disbursed $269,743.38 in Fund receipts during calendar year 2013.**

The Village of Robbins is the only entity to receive distributions from the Municipal Economic Development Fund. In calendar year 2013, Robbins' net cash receipts from the Municipal Economic Development Fund (MEDF) totaled $227,048.04 and the Village earned $1.43 in interest income on monies deposited into its MED account. Digest Exhibit 1 shows that Robbins disbursed $269,743.38 in Municipal Economic Development Fund receipts during calendar year 2013. Robbins began the year with a cash balance of $42,871.62 in its bank account for Municipal Economic Development Funds and ended the year with a balance of $177.71 in the account.

Digest Exhibit 1
**ROBBINS' RECEIPT AND DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS**
**(Calendar Year 2013)**

| | |
|---|---|
| Fund Distribution Received 06/13: | $91,724.97 |
| Fund Distribution Received 06/13: | $86,231.99 |
| Fund Distribution Received 06/13: | $31,897.61 |
| Distribution Received 07/13[1]: | $7,304.66 |
| Fund Distribution Received 10/13: | $11,349.47 |
| Fund Distribution Received 11/13: | $5,844.00 |
| Less Offset by Comptroller: | ($7,304.66) |
| Interest Income: | $1.43 |
| Total CY13 Cash Receipts: | $227,049.47 |
| Total CY13 Cash Disbursements: | $269,743.38 |
| (Deficiency) of Cash Receipts Over Cash Disbursements: | ($42,693.91) |
| Cash Balance End of CY12: | $42,871.62 |
| Cash Balance as of 12/31/13: | $177.71 |

Note: [1] This amount was received from the Comptroller's Offset Fund to repay an offset.
Source: Village of Robbins.

The Public Utilities Act establishes requirements regarding the allowable uses of Municipal Economic Development Funds (220 ILCS 5/8-403.1(j)). 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.

**We concluded that Robbins' calendar year 2013 expenditures of MEDF receipts appeared to comply with statutory guidelines.**

The Act also lists specific purposes for which the MEDF distributions cannot be used. Based on our review of documentation provided by the Village of Robbins, we concluded that Robbins' calendar year 2013 expenditures of MEDF receipts appeared to be consistent with Public Utilities Act requirements. Specific disbursements were made for employee payroll, insurance expenses, an installment payment for a fire truck, and general Village expenses. Digest Exhibit 2 summarizes the amount and purpose for Robbins' cash disbursements from the Municipal Economic Development Fund receipts during calendar year 2013.

Digest Exhibit 2
**VILLAGE OF ROBBINS' DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS (Calendar Year 2013)**

| Amount | Purpose |
|---|---|
| $203,344 | Village employee payroll expenses |
| $46,990 | Village employee insurance expenses |
| $11,250 | Fire truck installment purchase payment |
| $8,159 | General Village expenses |
| **$269,743** | **Total Disbursements** |

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

Village officials lacked internal controls and written procedures for the accounts under their control. The Village received nearly $220,000 in MEDF monies from the State in 2013 that were electronically deposited into the Village's Motor Fuel Tax (MFT) account in error. Because they lacked written internal control procedures that required investigating unusual deposits or comparing account balances over time, Village officials failed to recognize that the MEDF monies were being electronically deposited into the MFT account. We recommended that the Village develop and implement formal written internal control procedures to ensure that funds are properly managed and accounted for.

**We recommended that the Village develop and implement written formal internal control procedures.**

Consequently, because Robbins did not transfer the MEDF deposits from the MFT account and deposit them into the MED account, Robbins comingled MEDF monies with other Village funds. This resulted in non-compliance with the Public Utilities Act, which requires that MEDF monies be held in a "separate account." We recommended that Village officials ensure that all monies received from the State's MEDF are held in a separate account until expended for the purposes set forth in the Public Utilities Act.

**We recommended that Robbins officials ensure that all monies received from the State's MEDF are held in a separate account until expended.**

We audited the Village of Robbins Statements of Cash Receipts from the Municipal Economic Development Fund and Cash Disbursements from those Cash Receipts for the year ended December 31, 2013. We concluded that the financial statement presents fairly, in all material respects, the cash receipts and cash disbursements made from those receipts for the year ended December 31, 2013. Appendix B to the full report contains the Independent Auditors' Report. (pages 5-9)

**OTHER ISSUES**

The Department of Revenue continued to collect payments from a qualified solid waste energy facility (QSWEF) after the requirement to make payments expired in January 2013. These payments were deposited into the MEDF and distributed to Robbins. Using an FY14 appropriation for hardship refunds, the Department has refunded $30,703 of the $34,430 collected after the requirement expired, but had not refunded the full amount to the QSWEF. Further, as of September 2014, the Department had not attempted to recover the monies from Robbins. We recommended that the Department strengthen controls to ensure that taxes are not collected from taxpayers when the tax has expired, that the Department should notify the QSWEF of the remaining overpayment, and determine whether the payments to Robbins resulting from these overpayments should be recovered. (pages 9-10)

**We recommended the Department of Revenue strengthen controls to ensure that taxes are not collected when the tax has expired.**

**AGENCY RESPONSES**

This audit contains two recommendations directed toward the Village of Robbins and one recommendation for the Department of Revenue. The Village of Robbins concurred with the findings. The Department of Revenue also agreed with the finding. The full text of the Village's and the Department's responses are included as Appendix C of the report.

WILLIAM G. HOLLAND
Auditor General

WGH:BH

This audit was conducted by the staff of the Office of the 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, 2013)

## REPORT CONCLUSIONS

The Village of Robbins is the only entity to receive distributions from the Municipal Economic Development Fund. In calendar year 2013, Robbins' net cash receipts from the Municipal Economic Development Fund (MEDF) totaled $227,048.04 and the Village earned $1.43 in interest income on monies deposited into its MED account. Robbins' cash disbursements from MEDF receipts totaled $269,743.38 in calendar year 2013. Robbins began the year with a cash balance of $42,871.62 in its bank account for Municipal Economic Development Funds and ended the year with a balance of $177.71 in the account.

The Public Utilities Act establishes requirements regarding the allowable uses of Municipal Economic Development Fund distributions (220 ILCS 5/8-403.1(j)). 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. Distributions may also be used for cleanup of open dumping from vacant properties and the removal of structures condemned by the city, village, or incorporated town.

The Act also lists specific purposes for which the MEDF distributions cannot be used. Based on our review of documentation provided by the Village of Robbins, we concluded that Robbins' calendar year 2013 expenditures of MEDF receipts appeared to be consistent with Public Utilities Act requirements. Specific disbursements were made for employee payroll, insurance expenses, an installment payment for a fire truck, and general Village expenses.

Robbins officials lacked proper internal controls to identify that some electronic deposits into the Village's Motor Fuel Tax account were actually deposits from the MEDF that should have been transferred to the Village's Municipal Economic Development account. Consequently, Robbins did not hold the MEDF distributions in a separate account as required by statute. Additionally, the Department of Revenue collected $34,429.52 in payments from one qualified solid waste energy facility (QSWEF) for 10 months **after** the requirement for the QSWEF to pay into the Fund expired and deposited them into the MEDF. Most of this amount was subsequently refunded to the QSWEF from Revenue's FY 14 hardship refund appropriation.

However, the $34,429.52 collected and deposited in the MEDF was paid out to Robbins. As of September 2014, the Department of Revenue had not attempted to recover this amount from Robbins.

## 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 fifteenth 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. Since the statutory requirement for QSWEFs to make payments into the MEDF expired in January 2013, this will be our last audit of distributions from the MEDF to the Village of Robbins.

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

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 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 2013, each qualified solid waste energy facility was 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 made the payments to the Department of Revenue, which deposited them into the Fund. Public Act 92-435, effective August 17, 2001, allowed the Department to assess penalties and interest if a facility submits a payment late or fails to submit payments.

Amendments added by Public Act 94-836, effective June 6, 2006, required the Treasurer to compare the amount received by the Department of Revenue each month to the amount received in the corresponding month in 2002. If the amount received in 2002 was greater than the amount for the current month, the Comptroller was to transfer the difference from the

General Revenue Fund into the MEDF. Since the requirement for these transfers expired in January 2013, only one transfer, for December 2012 in the amount of $17,221.69, was made in 2013. However, during the audit of CY12 expenditures, we identified that one transfer during CY12 had not been made, and that transfer, for $6,593.75, was made in December 2013. The total amount certified and transferred from the General Revenue Fund to the State MEDF in calendar year 2013 was $23,815.44.

The State Treasurer is required to make distributions from the MEDF immediately after January 15, April 15, July 15, and October 15 of each year. Maximum aggregate distributions of $500,000 are to be made to each eligible municipality. However, in CY13, Robbins received six payments from the State. The October 2012 payment ($91,724.97), the January 2013 payment ($86,231.99), and an April 2013 payment ($31,897.61) were received in June 2013. One payment was received in July ($7,304.66 - repayment of an offset). The July 2013 payment ($11,349.47) was received in October and the October 2013 payment ($5,844.00) was received in November. The OAG compliance examination for the year ended June 30, 2013, of the Comptroller's Office contained a finding regarding not making transfers to other State funds when required.

Prior to August 14, 2009, an eligible city, village, or incorporated town had to have an incinerator within its boundaries 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 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 provided by the Illinois Environmental Protection Agency (IEPA), Robbins had the only incinerator in the State that met these criteria; therefore, Robbins was the only entity entitled to receive disbursements from the Municipal Economic Development Fund.

Public Act 96-449, effective August 14, 2009, changed the requirements for a municipality that is eligible to receive funds. An eligible municipality now had to be located in Cook County and must have "approved construction within its boundaries of an incinerator that will burn recovered wood processed for fuel to generate electricity." Robbins provided auditors with an agreement dated March 18, 2010, between the Village and Robbins Community Power. The agreement delineated various responsibilities of both parties and referenced the use of wood fuel.

An official at IEPA confirmed that the plant in Robbins was the only place in Cook County that had applied for and received an IEPA permit that meets the criteria in the statute.

An IEPA Project Activity Report for the Robbins facility dated November 7, 2012, detailed various project activities that had occurred at the Robbins facility in 2011 and 2012. However, an IEPA official noted that due to limited progress in the construction of the facility, the IEPA permit, which had been granted to the Robbins project, had expired. A May 17, 2013 IEPA email stated that construction at the Robbins project is no longer moving forward and "the relevant equipment at the project is being dismantled for shipment to a facility in Mexico."

As shown in Exhibit 1, Robbins has received over $4.6 million 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 the funds deposited into the Village's MEDF account 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.

Exhibit 1
**AMOUNTS RECEIVED FROM MUNICIPAL ECONOMIC DEVELOPMENT FUND AND SPENT BY VILLAGE OF ROBBINS**
**Calendar Years 1999 – 2013**

| Year | Fund Distributions | Interest | Total Income | Amounts Spent |
|---|---|---|---|---|
| CY99 | $61,628 | $0 | $61,628 | $0 |
| CY00 | $196,197 | $6,863 | $203,060 | $110,660 |
| CY01 | $263,184 | $5,370 | $268,554 | $417,772 |
| CY02 | $374,067 | $186 | $409,253[2] | $411,464 |
| CY03 | $303,626[1] | $152 | $303,778 | $297,525 |
| CY04 | $345,527[1] | $102 | $345,629 | $353,951 |
| CY05 | $335,251[1] | $122 | $335,373 | $335,733 |
| CY06 | $239,748[1] | $45 | $239,793 | $239,000 |
| CY07 | $448,349 | $457[3] | $450,807 | $451,331 |
| CY08 | $376,520 | $108 | $376,629 | $376,990 |
| CY09 | $380,568 | $56 | $380,624 | $380,646 |
| CY10 | $386,133 | $18 | $386,150 | $386,149 |
| CY11 | $295,505 | $1 | $295,506 | $167,277[4] |
| CY12 | $371,586 | $22 | $371,608 | $455,024 |
| CY13 | $227,048 | $1 | $227,049 | $269,743 |
| **Total[5]** | **$4,604,938[1]** | **$13,503[3]** | **$4,653,442[2]** | **$4,653,264** |

Notes: [1] Does not include Comptroller offsets of $448 in CY03, $1,876 in CY04, $490 in CY05, and $2,447 in CY06.
[2] Includes $35,000 in reimbursements from other Village funds for expenditures in 2001 and 2002.
[3] Does not include interest accumulated on grant funds inappropriately deposited into the Village's MEDF account.
[4] Does not include $20,000 transferred out of the MEDF account to another Village account in December 2011 and transferred back into the MEDF account in May 2012.
[5] Totals may not add due to rounding.
Source: Information provided by Village of Robbins, State Comptroller, and prior OAG audits.

## EXPENDITURE OF DISTRIBUTIONS FROM THE MUNICIPAL ECONOMIC DEVELOPMENT FUND

Comptroller records show five disbursements from the MEDF in calendar year 2013 totaling $227,048. An offset of $7,305 was deducted from one payment because of monies Robbins owed to the State. So a total of $219,743 was paid to Robbins directly from the MEDF in 2013. However, because of the State's delay in sending the payments, by the time the State paid the monies to Robbins, Robbins had already paid the $7,305 to the State that had been offset from one of the payments. So a separate warrant was written from the Comptroller's Offset Fund to Robbins for the amount that was offset. Exhibit 2 shows the funds distributed to Robbins in 2013.

Exhibit 2
**VILLAGE OF ROBBINS' RECEIPT AND DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS**
**Calendar Year 2013**

| | |
|---|---|
| Fund Distribution Received 06/13: | $91,724.97 |
| Fund Distribution Received 06/13: | $86,231.99 |
| Fund Distribution Received 06/13: | $31,897.61 |
| Distribution Received 07/13[1]: | $7,304.66 |
| Fund Distribution Received 10/13: | $11,349.47 |
| Fund Distribution Received 11/13: | $5,844.00 |
| Less Offset by Comptroller: | ($7,304.66) |
| Interest Income: | $1.43 |
| Total CY13 Cash Receipts: | $227,049.47 |
| Total CY13 Cash Disbursements: | $269,743.38 |
| (Deficiency) of Cash Receipts Over Cash Disbursements: | ($42,693.91) |
| Cash Balance End of CY12: | $42,871.62 |
| Cash Balance as of 12/31/13: | $177.71 |

Note: [1] This amount was received from the Comptroller's Offset Fund to repay an offset.
Source: Village of Robbins.

According to the Village Treasurer, in the spring of 2013, Robbins' former Economic Development Manager enrolled the Village in a program to receive electronic funds transfers from the State instead of receiving paper warrants for motor fuel tax receipts. The funds were to be transferred to the Village's Motor Fuel Tax account, a non-interest bearing account. Because neither this employee nor her supervisor, the former Village Administrator, is currently employed by the Village, we could not determine whether these employees were aware that nearly all future payments to the Village from the State would be electronically deposited into this account, including MEDF payments.

Current Village officials were unaware that they had received $219,743 in MEDF disbursements during CY13, which were deposited into the Motor Fuel Tax account, until our site visit in May 2014. They stated they noticed that the balance in the Motor Fuel Tax account was unusually high and they noticed that there were larger deposits into the account than had ever been made before, but they did not investigate the unusually large deposits or compare the account balance to the previous month or the previous year. Further, the Village lacked formal written procedures over accounts. They stated they thought the deposits were taxes for previous periods that were finally being disbursed by the State.

The Village should have formal written internal control procedures that require officials to monitor accounts under their control and investigate any unusual activity, including large deposits or disbursements. Large variances in account balances should also be investigated to determine the reason for those variances. Lack of formal written internal controls increases the likelihood of fraud or error.

| LACK OF INTERNAL CONTROLS AND WRITTEN PROCEDURES | |
|---|---|
| **RECOMMENDATION NUMBER 1** | ***The Village of Robbins should develop and implement formal written internal control procedures to ensure that unusual activities in its accounts and significant variances in account balances are investigated to ensure that funds are properly managed and accounted for.*** |
| **VILLAGE OF ROBBINS RESPONSE** | The Village agrees with the finding and is taking action to correct the problem. |

Because Village officials were unaware that they had actually received $219,743 in MEDF disbursements in calendar year 2013, these monies were improperly comingled with other Village funds. The electronic deposits remained in the Motor Fuel Tax account until they were transferred to other Village accounts to pay expenses. The Public Utilities Act (220 ILCS 5/8-403.1(j)) requires that any MEDF distributions received by a city, village, or incorporated town must be held in a separate account. While officials did deposit the paper warrant for the amount originally offset from one disbursement ($7,305) into Robbins' MED account, they did not properly identify the appropriate electronic deposits in the Motor Fuel Tax account as MEDF disbursements and thus did not properly redeposit the monies into the MED account.

| INADEQUATE CONTROLS OVER ACCOUNTS | |
|---|---|
| **RECOMMENDATION NUMBER 2** | ***Village of Robbins officials should ensure that all monies received from the State Municipal Economic Development Fund are held in a separate account until they are expended for the purposes set forth in the Public Utilities Act.*** |
| **VILLAGE OF ROBBINS RESPONSE** | The Village agrees with the finding and is taking action to correct the problem. |

Exhibit 2 shows that Robbins disbursed $269,743.38 in MEDF receipts during calendar year 2013. The Act 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.

- Distributions may also be used for cleanup of open dumping from vacant properties and the removal of structures condemned by the city, village, or incorporated town.

- 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 used the majority of the funds for employee payroll and insurance expenses. Exhibit 3 shows in detail the amount and purpose for Robbins' cash disbursements from the MEDF account during calendar year 2013.

Exhibit 3
**VILLAGE OF ROBBINS' DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS**
**Calendar Year 2013**

| Amount | Purpose |
|---|---|
| $203,344 | Village employee payroll expenses |
| $46,990 | Village employee insurance expenses |
| $11,250 | Fire truck installment purchase payment |
| $8,159 | General Village expenses |
| $269,743 | Total Disbursements |

Note: Figures rounded to the nearest dollar. Totals may not add due to rounding.
Source: Village of Robbins.

To determine the specific MEDF expenditures, we asked Robbins officials to identify which expenses were classified as motor fuel tax expenses. We then examined all the expenses not classified as motor fuel tax expenses until we reached the dollar amount of the disbursements received from the MEDF to determine whether they met the criteria in the Public Utilities Act..

Based on our review of documentation provided by the Village of Robbins, we concluded that Robbins' calendar year 2013 expenditures of MEDF receipts appeared to comply with Public Utilities Act guidelines. Specific disbursements were made for employee payroll, insurance and retirement expenses, an installment payment for the purchase of a fire truck, and general Village expenses.

The Village's spending policy, adopted on July 22, 2003, in response to costs questioned in our audits of 2001 and 2002 expenditures, specifies that MEDF monies will only be used to attract businesses and support public goods or services or other activities that constitute the Village's major or central operations. In addition, the policy says the Village will classify basic activities supported by MEDF monies and lists these classifications, including general government services; education; health and welfare; public safety; streets and highway maintenance; recreation; and capital outlays for land, buildings, and equipment.

None of the Robbins' financial audits for the years ended April 30, 2012, April 30, 2011, or April 30, 2010, contain a Report on Internal Controls so we could not determine if the auditors found any significant deficiencies or material weaknesses in financial reporting. The Independent Auditors Report in each audit states that Village management did not have adequate records concerning capital assets, depreciation expense, accumulated depreciation, or compensated absences. The financial audit for the year ended April 30, 2009, mentions that auditors found 7 significant deficiencies in the Village's internal controls over financial reporting, of which 5 were material weaknesses; these were reported to Robbins officials in a letter separate from the financial audit. However, Robbins officials were unable to provide the letter to OAG.

Exhibit 4 summarizes the MEDF funds spent by Robbins since calendar year 1999 according to broad categories. As shown in the exhibit, over 75 percent of the funds have been spent for Village payroll and insurance expenses. These expenses are administrative expenses that provide residential and service activities in the Village, thereby enhancing the public health and general welfare of the residents. Other expenses shown include improvements and repairs to Village properties, street improvements, and legal services. The legal services included work to acquire the titles to tax-delinquent properties in the Village in an effort to spur economic development. The Village has also bought, leased, repaired, or equipped fire engines and police vehicles to better protect Village residents.

Exhibit 4

**VILLAGE OF ROBBINS' DISBURSEMENT OF MUNICIPAL ECONOMIC DEVELOPMENT FUNDS**
**Calendar Years 1999 – 2013**

| Spending Category | Amount Spent | Percent |
|---|---|---|
| Payroll | $3,003,999.07 | 64.6 |
| Insurance | $514,736.20 | 11.1 |
| General Village expenses | $230,154.11 | 4.9 |
| Water bills | $224,378.02 | 4.8 |
| Village property repairs/additions | $94,771.59 | 2.0 |
| Purchase, repair, lease vehicles | $89,571.91 | 1.9 |
| Legal services | $88,556.91 | 1.9 |
| Street improvements | $86,901.75 | 1.9 |
| Village waste removal services | $69,933.81 | 1.5 |
| Lawsuit payments | $58,715.00 | 1.3 |
| Lobbying | $56,000.00 | 1.2 |
| Festival Expenses | $48,000.00 | 1.0 |
| Audit/CPA services | $46,875.00 | 1.0 |
| Repay grant funds | $32,243.05 | 0.7 |
| Appraisal services | $6,000.00 | 0.1 |
| Acquisition of property | $2,427.50 | 0.1 |
| **Total** | **$4,653,263.92** | **100.0** |

NOTE: Percentage total may not add due to rounding.
Source: Data provided by Village of Robbins and prior OAG audits.

We audited the 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, 2013. We concluded that the financial statement presents fairly, in all material respects, the cash receipts and cash disbursements made from those receipts for the year ended December 31, 2013. Appendix B contains the Independent Auditors' Report.

## OTHER ISSUES

The Department of Revenue was responsible for receiving monthly reports and payments from the qualified solid waste energy facilities (QSWEFs) through January 2013 and depositing the monies received into the MEDF. Any penalties and fees assessed for not filing or filing late are also deposited into the MEDF. A total of $38,385.07 was collected by the Department in CY13.

However, the Department continued to collect monthly reports and payments **after** the statutory requirement for QSWEFs to submit these payments expired in January 2013. Of the $38,385.07 collected by the Department in 2013, $34,429.52 (90 percent) was collected after the requirement to collect payments had expired in January 2013. These payments were made by one QSWEF. We inquired of Revenue as to why they continued to accept payments from the QSWEF after the requirement expired in January. A Revenue official stated that the Department's controls did not identify when this tax expired and should no longer have been collected. Consequently, because the QSWEF submitted the tax forms along with the payments, they were accepted and processed by Revenue.

In November 2013, after determining that the requirement to pay into the MEDF expired in January 2013, the Department notified the one QSWEF that was making these payments that it no longer needed to send in payments. The QSWEF then stopped making payments, and in early 2014, filed new documents showing $0 liability for February through September 2013. Consequently, the Department refunded those payments, totaling $30,703.07 to the facility. Since there were no funds remaining in the State MEDF, Revenue used monies from its FY14 hardship refund appropriation to refund the $30,703.07 to the QSWEF.

However, the facility failed to submit documents showing $0 liability for the October 2013 period, which resulted in the Department keeping the payment of $3,726.45 for that period, even though that tax was not owed. The Department official stated that the Department has no process to initiate the return of monies in instances where the taxpayer does not file a refund claim.

The $34,429.52 collected by Revenue after the January 2013 expiration date was deposited into the MEDF and subsequently was disbursed to Robbins in 2013. Consequently, Robbins received $34,429.52 to which it was not entitled. As of September 2014, the Department of Revenue had not attempted to recover this amount from Robbins.

| INADEQUATE CONTROLS OVER TAXES | |
|---|---|
| **RECOMMENDATION NUMBER 3** | ***The Department of Revenue should strengthen controls to ensure that taxes are not collected from taxpayers when a tax has expired. Also, the Department should notify the QSWEF of the remaining overpayment. Further, the Department should determine whether the amounts paid to Robbins should be recovered by the State and, if so, the means by which this should be accomplished.*** |
| **DEPARTMENT OF REVENUE RESPONSE** | The Department has taken several steps to address this matter. The Department is developing an automated tracking program in our integrated tax system that will alert staff to upcoming tax expiration dates. On October 16, 2014, the Department notified the QSWEF taxpayer of the remaining overpayment. The Department also mailed a notice to the Village of Robbins seeking repayment of the $34,429.52. |

## 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. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 2013. 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 2013.

Our objectives for this audit included the following: to determine whether the funds were used in compliance with the Act; to audit the cash receipts and disbursements; and to test controls over the receipts and expenditures.

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 all the funds expended. An Independent Auditors' Report, a Report on Internal Control Over Financial Reporting and On Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards, and a Statement of Cash Receipts and Disbursements in the Village's MEDF account are included in Appendix B. We also reviewed the approvals on the check request/funds transfer forms used by the Village.

We contacted officials at the Department of Revenue regarding the monies collected from the energy facilities in 2013. We also contacted officials at the Illinois Environmental Protection Agency to verify that Robbins was the only municipality entitled to receive monies from the MEDF under the statute.

The Village of Robbins' fiscal year ends April 30, and the Village's audit for the year ending April 30, 2012, was completed in October 2013. The audit stated that the financial statements fairly represented the financial position, with the exceptions of balances concerning capital assets, depreciation expense, accumulated depreciation, and compensated absences. The audit contained no report on the internal controls examined so we were unable to determine what internal controls were examined or what control issues might exist for the Village as a whole. The last Village financial audit that contained a report on internal controls, for the year ended April 30, 2009, noted seven significant deficiencies, of which five were material weaknesses. However, the audit stated that these were reported to Robbins in a separate letter, and Robbins officials were unable to provide us with the letter containing those deficiencies.

On October 24, 2014, an exit conference was held with the Department of Revenue. Attending from the Department of Revenue were Director Brian Hamer, Chief Legal Counsel Gail Niemann, and Chief Budget Officer Cory Staley. Attending from the Office of the Auditor General were Bill Helton, Audit Manager, and Brenda Barker, Staff Auditor.

# APPENDIX A

# Public Utilities Act

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

(220 ILCS 5/8-403.1) (from Ch. 111 2/3, par. 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 solid waste energy facility, whenever the qualified solid waste energy facility ceases to operate and produce electricity from methane gas generated from landfills, or at the end of the contract entered into pursuant to subsection (c) of this Section, whichever occurs first, the qualified solid waste energy 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. The payments shall be made to the Illinois Commerce Commission, which shall determine the appropriate disbursements to the Public Utility Fund and the General Revenue Fund based on this subsection (d).

(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.

(e-5) A qualified solid waste energy facility may receive the purchase rate provided in subsection (c) of this Section only for kilowatt-hours generated by the use of methane gas generated from landfills. The purchase rate provided in subsection (c) of this Section does not apply to electricity generated by the use of a fuel that is not methane gas generated from landfills. If the Illinois Commerce Commission determines that a qualified solid waste energy facility has violated the requirement regarding the use of methane gas generated from a landfill as set forth in this subsection (e-5), then the Commission shall issue an order requiring that the qualified solid waste energy facility repay the State for all dollar amounts of electricity sales that are determined by the Commission to be the result of the violation. As part of that order, the Commission shall have the authority to revoke the facility's approval to act as a qualified solid waste energy facility granted by the Commission under this Section. If the amount owed by the qualified solid waste energy facility is not received by the Commission within 90 days after the date of the Commission's order that requires repayment, then the Commission shall issue an order that revokes the facility's approval to act as a qualified solid waste energy facility granted by the Commission under this Section. The Commission's action that vacates prior qualified solid waste energy facility approval does not excuse the repayment to the State treasury required by subsection (d) of this Section for utility tax credits accumulated up to the time of the Commission's action. A qualified solid waste energy facility must receive Commission approval before it may use any fuel in addition to methane gas generated from a landfill in order to generate electricity. If a qualified solid waste energy facility petitions the Commission to use any fuel in addition to methane gas generated from a landfill to generate electricity, then the Commission shall have the authority to do the following:

(1) establish the methodology for determining the amount of electricity that is generated by the use of methane gas generated from a landfill and the amount that is generated by the use of other fuel;

(2) determine all reporting requirements for the qualified solid waste energy facility that are necessary for the Commission to determine the amount of electricity that is generated by the use of methane gas from a landfill and the amount that is generated by the use of other fuel and the resulting payments to the qualified solid waste energy facility; and

(3) require that the qualified solid waste energy facility, at the qualified solid waste energy facility's expense, install metering equipment that the Commission determines is necessary to enforce compliance with this subsection (e-5).

A public utility that is required to enter into a long-term purchase contract with a qualified solid waste energy facility has no duty to determine whether the electricity being purchased was generated by the use of methane gas generated from a landfill or was generated by the use of some other fuel in violation of the requirements of this subsection (e-5).

(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 2013, 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).

Beginning on July 1, 2006 through January 31, 2013, each month the State Treasurer shall certify the following to the State Comptroller:

(A) the amount received by the Department of Revenue under this subsection (i) during the immediately preceding month; and

(B) the amount received by the Department of Revenue under this subsection (i) in the corresponding month in calendar year 2002.

As soon as practicable after receiving the certification from the State Treasurer, the State Comptroller shall transfer from the General Revenue Fund to the Municipal Economic Development Fund in the State treasury an amount equal to the amount by which the amount calculated under item (B) of this paragraph exceeds the amount calculated under item (A) of this paragraph, if any.

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 located in Cook County that has approved construction within its boundaries of an incinerator that will burn recovered wood processed for fuel to generate electricity and will commence operation after 2009. 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. Distributions may also be used for cleanup of open dumping from vacant properties and the removal of structures condemned by the city, village, or incorporated town. 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.

(m) On and after the effective date of this amendatory Act of the 94th General Assembly, beginning on the first date on which renewable energy certificates or other saleable representations are sold by a qualified solid waste energy facility, with or without the electricity generated by the facility, and utilized by an electric utility or another electric supplier to comply with a renewable energy portfolio standard mandated by Illinois law or mandated by order of the Illinois Commerce Commission, that qualified solid waste energy facility may not sell electricity pursuant to this Section and shall be exempt from the requirements of subsections (a) through (l) of this Section, except that it shall remain obligated for any reimbursements required under subsection (d) of this Section. All of the provisions of this Section shall remain in full force and effect with respect to any qualified solid waste energy facility that sold electric energy pursuant to this Section at any time before July 1, 2006 and that does not sell renewable energy certificates or other saleable representations to meet the requirements of a renewable energy portfolio standard mandated by Illinois law or mandated by order of the Illinois Commerce Commission.

(n) Notwithstanding any other provision of law to the contrary, beginning on July 1, 2006, the Illinois Commerce Commission shall not issue any order determining that a facility is a qualified solid waste energy facility unless the qualified solid waste energy facility was determined by the Illinois Commerce Commission to be a qualified solid waste energy facility before July 1, 2006. As a guide to the intent, interpretation, and application of this amendatory Act of the 94th General Assembly, it is hereby declared to be the policy of this State to honor each qualified solid waste energy facility contract in existence on the effective date of this amendatory Act of the 94th General Assembly if the qualified solid waste energy facility continues to meet the requirements of this Section for the duration of its respective contract term.

(Source: P.A. 96-449, eff. 8-14-09.)

# APPENDIX B

# Financial Reports

SPRINGFIELD OFFICE:
ILES PARK PLAZA
740 EAST ASH • 62703-3154
PHONE: 217/782-6046
FAX: 217/785-8222 • TTY: 888/261-2887
FRAUD HOTLINE: 1-855-217-1895

CHICAGO OFFICE:
MICHAEL A. BILANDIC BLDG. • SUITE S-900
160 NORTH LASALLE • 60601-3103
PHONE: 312/814-4000
FAX: 312/814-4006
FRAUD HOTLINE: 1-855-217-1895

OFFICE OF THE AUDITOR GENERAL
WILLIAM G. HOLLAND

# INDEPENDENT AUDITORS' REPORT

Honorable William G. Holland
Auditor General
State of Illinois

Board of Trustees
Village of Robbins

**Report on the Financial Statements**

We have audited the accompanying Village of Robbins Statement of Cash Receipts from the State Municipal Economic Development Fund and Cash Disbursements from those Cash Receipts as of and for the year ended December 31, 2013, and the related notes to the financial statement.

**Management's Responsibility for the Financial Statements**

Management is responsible for the preparation and fair presentation of this financial statement in accordance with the financial reporting provisions of the State of Illinois Public Utilities Act. Management is also responsible for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

**Auditors' Responsibility**

Our responsibility is to express an opinion on this financial statement based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statement. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statement in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statement.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

**Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles**

As described in Note 1 of the financial statement, the financial statement is prepared by the Village of Robbins on the basis of the financial reporting provisions of the State of Illinois Public Utilities Act, which is a basis of accounting other than accounting principles generally accepted in the United States of America, to meet the requirements of the State of Illinois Public Utilities Act.

The effects on the financial statement of the variances between the regulatory basis of accounting described in Note 1 and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

**Adverse Opinion on U.S. Generally Accepted Accounting Principles**

In our opinion, because of the significance of the matter discussed in the "Basis for Adverse Opinion on U.S. Generally Accepted Accounting Principles" paragraph, the financial statement referred to above does not present fairly, in accordance with accounting principles generally accepted in the United States of America, the financial position of the Village of Robbins Statement of Cash Receipts from the State Municipal Economic Development Fund and Cash Disbursements from those Cash Receipts as of December 31, 2013.

**Unmodified Opinion on Regulatory Basis of Accounting**

In our opinion, the financial statement referred to above presents 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 as of December 31, 2013 in accordance with the provisions of the State of Illinois Public Utilities Act as described in Note 1.

**Other Reporting Required by Government Auditing Standards**

In accordance with *Government Auditing Standards*, we have also issued our report dated October 17, 2014 on our consideration of the Village of Robbins Statement of Cash Receipts from the State Municipal Development Fund and Cash Disbursements from those Cash Receipts' internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Village of Robbins' internal control over financial reporting and compliance.

Kelly J. Mittelstaedt

Kelly J. Mittelstaedt, CPA
Audit Manager

Springfield, Illinois
October 17, 2014

SPRINGFIELD OFFICE:
ILES PARK PLAZA
740 EAST ASH • 62703-3154
PHONE: 217/782-6046
FAX: 217/785-8222 • TTY: 888/261-2887
FRAUD HOTLINE: 1-855-217-1895

CHICAGO OFFICE:
MICHAEL A. BILANDIC BLDG. • SUITE S-900
160 NORTH LASALLE • 60601-3103
PHONE: 312/814-4000
FAX: 312/814-4006
FRAUD HOTLINE: 1-855-217-1895

OFFICE OF THE AUDITOR GENERAL
WILLIAM G. HOLLAND

**INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS***

Honorable William G. Holland
Auditor General
State of Illinois

Board of Trustees
Village of Robbins

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the Village of Robbins Statement of Cash Receipts from the State Municipal Economic Development Fund and Cash Disbursements from those Cash Receipts, as of and for the year ended December 31, 2013, and the related notes to the financial statement, and have issued our report thereon dated October 17, 2014.

Internal Control Over Financial Reporting

In planning and performing our audit of the financial statement, we considered the Village of Robbins' internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Village of Robbins' internal control. Accordingly, we do not express an opinion on the effectiveness of the Village of Robbins' internal control.

Our consideration of internal control was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as described in the accompanying Schedule of Findings and Responses, we identified certain deficiencies in internal control that we consider to be material weaknesses.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiency described in the accompanying Schedule of Findings and Responses as item 2013-001 to be a material weakness.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Village of Robbins' financial statement is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under *Government Auditing Standards* and which is described in the accompanying Schedule of Findings and Responses as item 2013-002.

Village of Robbins Responses to Findings

The Village of Robbins responses to the findings identified in our audit are described in the accompanying Schedule of Findings and Responses. Village of Robbins responses were not subjected to the auditing procedures applied in the audit of the financial statements and, accordingly, we express no opinion on the responses.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Kelly J. Mittelstaedt

Kelly J. Mittelstaedt, CPA
Audit Manager

Springfield, Illinois
October 17, 2014

VILLAGE OF ROBBINS
STATEMENT OF CASH RECEIPTS FROM
THE STATE MUNICIPAL ECONOMIC DEVELOPMENT FUND AND
CASH DISBURSEMENTS FROM THOSE CASH RECEIPTS
FOR THE YEAR ENDED DECEMBER 31, 2013

| | Year Ended December 31, 2013 |
|---|---|
| CASH RECEIPTS: | |
| Gross Receipts from the State Municipal Economic Development Fund | $234,352.70 |
| Less Offsets by Comptroller from payments | $(7,304.66) |
| Net Receipts from the State Municipal Economic Development Fund | $227,048.04 |
| Interest Income | $1.43 |
| Total | $227,049.47 |
| CASH DISBURSEMENTS: | |
| Cash Disbursements from Receipts from the State Municipal Economic Development Fund | $269,743.38 |
| (Deficiency) of Cash Receipts Over Cash Disbursements | ($42,693.91) |
| Cash Balance at Beginning of Period | $42,871.62 |
| Cash Balance at End of Period | $177.71 |

See accompanying Notes to the Financial Statement

# NOTE TO THE FINANCIAL STATEMENT

## Note 1 – Significant Accounting Policies

A. Reporting Entity

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 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 2013, each qualified solid waste energy facility was 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 made the payments to the Department of Revenue, which deposited them into the Fund. Public Act 92-435, effective August 17, 2001, allowed the Department to assess penalties and interest if a facility submitted a payment late or failed to submit payments.

Amendments added by Public Act 94-836, effective June 6, 2006, required the Treasurer to compare the amount received by the Department of Revenue each month to the amount received in the corresponding month in 2002. If the amount received in 2002 was greater than the amount received for the current month, the Comptroller was to transfer the difference from the General Revenue Fund into the MEDF. Since the requirement for these transfers expired in January 2013, only one transfer, for December 2012 in the amount of $17,221.69, was made in 2013. However, during the audit of CY12 expenditures, we identified that one transfer during CY12 had not been made, and that transfer, for $6,593.75, was made in December 2013. The total amount certified and transferred from the General Revenue Fund to the State MEDF in calendar year 2013 was $23,815.44.

The State Treasurer is required to make distributions from the MEDF immediately after January 15, April 15, July 15, and October 15 of each year. Maximum aggregate distributions of $500,000 are to be made to each eligible municipality. However, in CY13, Robbins received six payments from the State. The October 2012 payment ($91,724.97), the January 2013 payment ($86,231.99), and an April 2013 payment ($31,897.61) were received in June 2013. One payment was received in July ($7,304.66 - repayment of an offset). The July 2013 payment ($11,349.47) was received in October and the October 2013 payment ($5,844.00) was received in November. The OAG compliance examination of the Comptroller's Office for the year ended June 30, 2013 contained a finding regarding not making transfers to other State funds when required.

Before Public Act 96-449 was passed, an eligible city, village, or incorporated town had to have an incinerator within its boundaries 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 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 provided by the Illinois Environmental Protection Agency (IEPA), Robbins had the only incinerator in the State that met these criteria; therefore, Robbins was the only entity entitled to receive disbursements from the Municipal Economic Development Fund.

Public Act 96-449, effective August 14, 2009 changed the requirements for a municipality that is eligible to receive funds. An eligible municipality now had to be located in Cook County and must have "approved construction within its boundaries of an incinerator that will burn recovered wood processed for fuel to generate electricity." Robbins provided auditors with an agreement dated March 18, 2010, between the Village and Robbins Community Power. The agreement delineated various responsibilities of both parties and referenced the use of wood fuel.

An official at IEPA confirmed that the plant in Robbins was the only place in Cook County that had applied for and received an IEPA permit that meets the criteria in the statute. An IEPA Project Activity Report for the Robbins facility dated November 7, 2012, detailed various project activities that had occurred at the Robbins facility in 2011 and 2012. However, an IEPA official noted that due to limited progress in the construction of the facility, the IEPA permit, which had been granted to the Robbins project, had expired. A May 17, 2013 IEPA email stated that construction at the Robbins project is no longer moving forward and "the relevant equipment at the project is being dismantled for shipment to a facility in Mexico."

B. Basis of Accounting

The accompanying financial statement has 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, cash 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 statement are not included in the financial statement.

# VILLAGE OF ROBBINS
# MUNICIPAL ECONOMIC DEVELOPMENT FUND ACCOUNT
## SCHEDULE OF FINDINGS AND RESPONSES
## Year Ended December 31, 2013

**FINDING NO. 2013-001 Inadequate Controls over Accounts and Lack of Written Procedures**

The Village did not have adequate internal controls over its accounts and lacked written procedures. Current Village officials were unaware that they had received $219,743 in State Municipal Economic Development Fund (MEDF) disbursements during CY13 until May 2014. According to the Village Treasurer, in the spring of 2013, Robbins' former Economic Development Manager enrolled the Village in a program to receive electronic funds transfers from the State instead of receiving paper warrants for motor fuel tax receipts. The funds were to be transferred to the Village's Motor Fuel Tax account. Because neither this employee nor her supervisor, the former Village Administrator, is currently employed by the Village, we could not determine whether these employees were aware that nearly all future payments to the Village from the State would be electronically deposited into this account, including MEDF payments and other disbursements.

Village officials stated they noticed that the balance in the Motor Fuel Tax account was unusually high and that there were larger deposits into the account than had ever been made before. Officials did not investigate the unusually large deposits to determine the reason nor did they compare the account balance each month to the previous month or the previous year. The Village also lacked written procedures, which would have contained such steps. They stated they thought the deposits were taxes for previous periods that were finally being disbursed by the State.

The Village should have formal written internal control procedures that require officials to monitor accounts under their control and investigate any unusual activity, including large deposits or disbursements. Large variances in account balances should also be investigated to determine the reason for those variances. Lack of formal written internal controls increases the likelihood of fraud or error.

**Recommendation:**

The Village of Robbins should develop and implement formal written internal control procedures to ensure that unusual activities in its accounts and significant variances in account balances are investigated to ensure that funds are properly managed and accounted for.

**Agency Response:**

The Village agrees with the finding and is taking action to correct the problem.

## FINDING NO. 2013-002 Hold Funds in Separate Account

Robbins officials were unaware that $219,743 in State Municipal Economic Development Fund (MEDF) disbursements were electronically deposited into the Village's Motor Fuel Tax account in calendar year 2013 in error. Consequently, these monies were improperly comingled with other Village funds. The Public Utilities Act (220 ILCS 5/8-403.1(j)) requires that any MEDF distributions received by a city, village, or incorporated town must be held in a separate account. The electronic deposits remained in the Motor Fuel Tax account until they were transferred to other Village accounts to pay expenses. Officials did deposit one warrant for the amount originally offset from one disbursement ($7,305) into the Village's separate Municipal Economic Development (MED) account, but did not properly identify the appropriate electronic deposits in the Motor Fuel Tax account as MEDF disbursements and therefore did not properly transfer the monies into the separate MED account.

**Recommendation:**

The Village of Robbins should ensure that disbursements from the State's Municipal Economic Development Fund are held in a separate account, as required by the Public Utilities Act.

**Agency Response:**

The Village agrees with the finding and is taking action to correct the problem.

# VILLAGE OF ROBBINS
# MUNICIPAL ECONOMIC DEVELOPMENT FUND ACCOUNT
## SCHEDULE OF FINDINGS AND RESPONSES
## Year Ended December 31, 2013

### Schedule of Prior Findings Not Repeated

| Finding No. | Condition | Status |
|---|---|---|

# APPENDIX C

# Agency Responses

ROBBINS, ILLINOIS
"ACHIEVEMENT THROUGH COMMUNITY SPIRIT"

# Village of Robbins

Incorporated December 14, 1917



October 24, 2014

Bill Helton
Office of the
Auditor General
State of Illinois
740 East Ash Street
Springfield, IL 62703

RE: Village of Robbins
2013 MEDF Audit Report

Dear Mr. Helton:

This letter is the Village of Robbins' response to the draft of the above-named audit report for the calendar year ending December 31, 2013.

The Village agrees with the findings and is taking actions to correct the problems as indicated in your finding no. 1 ( Lack of Internal Controls and Written Procedures) and no. 2 (Hold Funds In A Separate Account). findings.

Sincerely,
VILLAGE OF ROBBINS

Ernestine B. Beck-Fulgham
Village Administrator

3327 West 137th Street
Robbins, Illinois 60472

Telephone: (708) 385-8940
Fax: (708) 385-0542

**Illinois Department of Revenue**

101 W. Jefferson St.
Springfield, IL 62702

October 24, 2014

Mr. Bill Helton
Illinois Office of the Auditor General
Michael A. Bilandic Building
160 N. LaSalle Street
Suite S-900
Chicago, Illinois 60601-3103

Dear Bill:

Thank you for the opportunity to discuss the Financial, Compliance and Program Audit of the Village of Robbins' Use of Municipal Economic Development Funds in today's exit conference. As requested, below is the Department of Revenue's response to Recommendation 3.

*The Department has taken several steps to address this matter. The Department is developing an automated tracking program in our integrated tax system that will alert staff to upcoming tax expiration dates. On October 16, 2014, the Department notified the QSWEF taxpayer of the remaining overpayment. The Department also mailed a notice to the Village of Robbins seeking repayment of the $34,429.52.*

If you have any questions, please do not hesitate to contact me at (217) 782-3034.

Sincerely,

Cory Staley
Chief Budget Officer

Cc: Director Brian Hamer