



# Village of Herrings

## Financial Operations and the Sale of Land

### Report of Examination

Period Covered:

June 1, 2011 — September 30, 2012

2013M-41



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## Division of Local Government and School Accountability

May 2013

Dear Village Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Village Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Village of Herrings entitled Financial Operations and the Sale of Land. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*



## State of New York Office of the State Comptroller

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# EXECUTIVE SUMMARY

The Village of Herrings is located in the Town of Wilna in Jefferson County, and has a population of 90 residents. The Village offers a variety of services to its residents including street maintenance, garbage pick-up, water, sewer and general government support. Budgeted appropriations for the fiscal year ended May 31, 2013 were approximately \$130,000 in the general fund and \$33,500 in the sewer fund. The Village derives the majority of moneys to finance these services from real property taxes, sales tax, and State aid for general fund appropriations; sewer rents and a transfer from the general fund provide resources for the sewer fund appropriations.

The Village Board consists of a Mayor and two trustees, all elected for two-year terms. The Board is the legislative body responsible for the general management and control of the Village's financial affairs. The Clerk-Treasurer is the chief fiscal officer and is responsible for cash receipts and disbursements, maintaining accounting records, preparing financial reports and filing the Village's annual update document (AUD) with the Office of the State Comptroller (OSC).

### **Scope and Objective**

The objective of our audit was to determine whether the Board properly monitored the Village's financial operations for the period June 1, 2011 to September 30, 2012. Our audit addressed the following related questions:

- Did the Board provide adequate oversight of the Clerk-Treasurer?
- Did the Board take action to secure the best price or most beneficial terms prior to selling unneeded property to the Mayor?

### **Audit Results**

The Board did not provide adequate oversight of the fiscal duties of the Clerk-Treasurer. The former Clerk-Treasurer did not create or maintain cash journals, general ledgers or subsidiary revenue and expenditure ledgers and did not provide a monthly budget-to-actual report. The Board received a verbal report of cash balances in each fund from the Clerk-Treasurer. Without periodic, accurate reports, the Board is limited in its ability to effectively monitor and make informed decisions concerning the Village's financial activities.

The Board did not establish compensating controls over the Clerk-Treasurer's financial duties. Consequently the Clerk-Treasurer is solely responsible for all aspects of the Village's financial and

recordkeeping duties, including receiving and depositing moneys (taxes and sewer rents), writing checks, making bank transfers, billing sewer rents, recording sewer payments, maintaining accounting records, receiving and opening bank statements, and reconciling bank accounts. With these duties, the Clerk-Treasurer could misappropriate Village funds and adjust the Village records to conceal inappropriate transactions.

Also, the former Clerk-Treasurer did not complete monthly bank reconciliations and she paid claims before they were audited and approved by the Board.

In addition, the Board has not audited, or caused to be audited, the Treasurer's records since at least 2007. An effective audit of the Clerk-Treasurer's records and reports would have identified the serious deficiencies in the accounting records. Without an annual audit, the Board cannot have assurance that the Clerk-Treasurer properly accounted for all the Village's financial resources, and there is an increased risk that errors or irregularities could occur and remain undetected and uncorrected.

Finally, the Board did not take sufficient action to ensure the sale of unneeded Village-owned property to the Mayor for \$500 was in the best interest of the taxpayers. The Village may not have received the best possible price for the property. In addition, if the value of the property was greater than \$750, the Mayor would have had a prohibited interest in the contract for the sale of the property.

### **Comments of Local Officials**

The results of our audit and recommendations have been discussed with Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Village officials generally agreed with our recommendations and indicated they planned to take corrective action.

# Introduction

## Background

The Village of Herrings is located in the Town of Wilna in Jefferson County, and has a population of 90 residents. The Village Board consists of a Mayor and two trustees, all elected for two-year terms. The Board is the legislative body responsible for the general management and control of the Village's financial affairs.

The Village offers a variety of services to its residents including street maintenance, garbage pick-up, water, sewer and general government support. Budgeted appropriations for the fiscal year ended May 31, 2013 were approximately \$130,000 in the general fund and \$33,500 in the sewer fund. The Village derives the majority of moneys to finance these services from real property taxes, sales tax, and State aid for general fund appropriations; sewer rents and a transfer from the general fund provide resources for sewer fund appropriations.

The Mayor, as the Village's chief executive officer, appoints the Clerk-Treasurer.<sup>1</sup> The Clerk-Treasurer is the chief fiscal officer and is responsible for cash receipts and disbursements, maintaining accounting records, preparing financial reports, and filing the Village's annual update document (AUD) with the Office of the State Comptroller (OSC). The Board is responsible for fiscal oversight which includes auditing claims, conducting an annual audit of the Clerk-Treasurer's records, and ensuring the Clerk-Treasurer files the AUD in a timely manner.

## Objective

The objective of our audit was to determine whether the Board properly monitored the Village's financial operations. Our audit addressed the following related questions:

- Did the Board provide adequate oversight of the Clerk-Treasurer?
- Did the Board take action to secure the best price or most beneficial terms prior to selling unneeded property to the Mayor?

## Scope and Methodology

We examined the Board's monitoring of financial operations for the period June 1, 2011 to September 30, 2012.

<sup>1</sup> The current Mayor took office in January 2011 after the former Mayor resigned. The current Mayor served as a Village Trustee from 2007 until he was elected Mayor.

**Comments of  
Local Officials and  
Corrective Action**

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

The results of our audit and recommendations have been discussed with Village officials and their comments, which appear in Appendix A, have been considered in preparing this report. Village officials generally agreed with our recommendations and indicated they planned to take corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Clerk-Treasurer's office.

## Financial Operations

The Mayor and the Board are responsible for overseeing the Village's financial operations and safeguarding the Village's resources. The Board's responsibility includes establishing a system of internal controls which consist of policies and procedures that provide reasonable assurance that cash and other resources are properly spent. The Board should ensure that no individual controls all aspects of the financial transactions, or provide for compensating controls to help mitigate risks. In addition, the Board must continually monitor and ensure monthly reports such as budget-to-actual reports are prepared and reviewed. These reports provide the Board with information necessary to monitor Village operations and ensure compliance with the adopted budget. The Board also must make certain that the Clerk-Treasurer files required documents with OSC on a timely basis. Finally, the Board must annually audit, or cause to be audited, the Clerk-Treasurer's financial records and reports.

The Clerk-Treasurer is solely responsible for most of the Village's day-to-day financial activities, including maintaining accounting records. Records and reports provided to the Board by the Clerk-Treasurer are incomplete and insufficient to effectively monitor the Village and/or the Clerk-Treasurer's work. Additionally, the Clerk-Treasurer pays claims submitted by vendors prior to Board audit and approval. Bank reconciliations are not performed and the Board does not audit the Clerk-Treasurer's records. These insufficiencies occurred mainly because the Board has not established policies and procedures detailing expectations of the Clerk-Treasurer or was not aware of Board requirements. As a result, the Board has no assurance that the Clerk-Treasurer properly accounted for all the Village's financial resources.

### **Records and Reports**

Complete and accurate accounting records and reports are essential tools that the Board should use to monitor Village financial operations. Cash journals, general ledgers (including cash control accounts) should be maintained, along with subsidiary ledgers to keep track of revenues and expenditures for each fund. Good management practices require the Clerk-Treasurer to provide monthly financial reports to the Board that include budget-versus-actual comparisons for total revenues and expenditures, individual revenue and expenditure accounts, and totals for balance sheet accounts.

The former Clerk-Treasurer maintained a manual check register for Village checking accounts, but did not keep cash receipt and disbursement journals, general ledgers or detailed revenue and



expenditure ledgers and did not prepare a monthly budget-to-actual report. Although the Mayor maintained a spreadsheet showing budgeted appropriations and expenditures coded to each appropriation account, he did not share any budget vs. actual information with the Board. The Board only received a verbal report from the Clerk-Treasurer that addressed the beginning cash balance in the general and sewer funds, revenues received, amounts paid out and ending balances in each fund. A Trustee told us that he had never seen a budget-to-actual report.

According to the Mayor, the former Clerk-Treasurer refused to maintain ledgers and would not create a budget-to-actual monthly report. Without periodic, accurate reports, the Board is limited in its ability to effectively monitor and make informed decisions concerning the Village's financial activities.

Compensating Controls — A key component of an effective system of internal controls is the segregation of incompatible duties, i.e., accounting records maintenance, cash custody, and bank reconciliations. When it is not feasible to segregate duties, as is the case in the Village of Herrings, the Board must establish compensating controls, such as enhanced management oversight and/or monthly reconciliation of bank balances by someone who does not have the ability to enter or modify transactions in the accounting records.

The Board did not establish compensating controls over the Clerk-Treasurer's financial duties. Consequently the Clerk-Treasurer is solely responsible for all aspects of the Village's financial and recordkeeping duties, including receiving and depositing moneys (taxes and sewer rents), writing checks, making bank transfers, billing sewer rents, recording sewer payments, maintaining accounting records, receiving and opening bank statements, and reconciling bank accounts. With these duties, the Clerk-Treasurer could misappropriate Village funds and adjust the Village records to conceal inappropriate transactions.

Claims Audit — The Board is responsible for auditing and approving all claims for payment prior to the disbursements being made to pay them, with few exceptions.<sup>2</sup> After the claims have been audited, the Mayor must sign an abstract of the audited claims directing the Clerk-Treasurer to pay the claimants the allowed amounts. The Board minutes should contain a record of the claims audited and approved for payment.

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<sup>2</sup>Certain claims may be paid prior to Board audit (e.g., fixed salaries, debt service, public utility services, postage, freight, and express charges.)

According to the Mayor and a Trustee, the former Clerk-Treasurer paid bills before claims were audited by the Board. She created the abstract, summarizing the claims she had already paid to give to the Board. The Mayor never signed the abstract authorizing payment of the claims. The claims were each signed by the Board members to signify they were approved; however, this occurred after the claim had already been paid. A Trustee informed us when he received bills to audit, he would not review them or verify the legitimacy of the purchase, he would just sign the claims presented to him.

To address these risks, we examined 106 disbursements totaling about \$39,800 to determine whether they were Board-authorized and legitimate expenses. Although abstracts and claims were presented to the Board after the checks were sent to vendors, we did not identify any significant discrepancies. Nevertheless, the lack of a thorough and deliberate claims audit by the Board prior to payment increases the risk that inappropriate and/or unauthorized payments could be made.

Bank Reconciliations — The reconciliation of bank balances to the ledger cash balances is essential to ensure that Village records reflect correct cash balances and that cash is safeguarded. Accurate and complete bank reconciliations should be documented and should include the timely identification and investigation of any differences. Ideally someone who is not involved in record keeping and check signing should be responsible for reconciling bank accounts, but if this is not feasible, then the Board should review the reconciliations (including the bank statements and canceled checks).

The former Clerk-Treasurer did not complete monthly bank reconciliations. We reconciled cash as of September 2012 using bank statements and manual check registers for both the general and sewer fund checking accounts and determined that the balances in the check registers were inaccurate. The adjusted bank balance for the general fund checking account at September 30, 2012 was approximately \$1,660 less than the check register indicated. The adjusted bank balance for the sewer fund checking account at September 30, 2012 was approximately \$3,600 less than the check register indicated.

The former Clerk-Treasurer's failure to reconcile bank balances to check registers prevented the Board from having reasonable assurance that all financial information is properly recorded and increased the risk that improper cash transactions or bank errors could occur and go undetected and uncorrected.

Due to the lack of reliable accounting records and bank reconciliations, we conducted tests to ensure that cash disbursements were for

appropriate Village business and that cash receipts were deposited in Village bank accounts.<sup>3</sup> Although our audit tests did not reveal any significant discrepancies, this does not diminish the need for the Board and Clerk-Treasurer to correct the recordkeeping and reconciliation deficiencies identified in this report.

## **Annual Financial Reports**

A local government is required by law to annually complete and file its AUD, which is a detailed report of all financial activity for the preceding year, with OSC. This report provides the Board, OSC, and Village residents with a tool for monitoring financial operations. The Clerk-Treasurer is required to complete and submit the AUD no later than 60 days after the close of the fiscal year. While it is the Clerk-Treasurer's responsibility to complete and file this report, the Board should have procedures in place to review this report for accuracy and ensure that the Clerk-Treasurer completes and submits it in a timely manner.

According to the Mayor, the former Clerk-Treasurer refused to file the 2010-11 AUD and would not assist him in filing it. The former Mayor completed the 2009-10 AUD for the Clerk-Treasurer, which was the last correctly filed AUD. The Mayor filed the 2010-11 AUD on September 27, 2011, but it was out of balance and the cash reported on the AUD did not agree with the cash in the bank at May 31, 2011. As of the completion of our field work, the Mayor and new Clerk-Treasurer were still working on re-filing the 2010-11 AUD and had not filed the 2011-12 AUD. The Village's incomplete accounting records contributed to the Treasurer's inability to file the AUD on time.

The failure to file a timely AUD with OSC deprives the Board and the public with one of the primary tools necessary to monitor the Village's financial affairs.

## **Annual Audits**

Village Law requires that the Board annually audit the Clerk-Treasurer's reports and supporting records, or cause them to be audited by a Village officer or employee or a public accountant. This annual accounting provides an added measure of assurance that financial records and reports contain reliable information on which to base management decisions and gives the Board the opportunity to monitor the Village's fiscal procedures. The annual audit of the Clerk-Treasurer's financial records also helps the Board to monitor the Clerk-Treasurer's fiscal activities. The audit of these records provides independent verification that the records have been maintained in accordance with established procedures, transactions have been properly recorded, and cash has been accounted for properly. It also

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<sup>3</sup> See Appendix B for information on the tests we performed.

provides the Board with an added measure of assurance that the financial records and reports contain reliable information on which to base their financial decisions.

The Board has not audited, or caused to be audited, the Clerk-Treasurer's records since 2007. The Mayor informed us that he was not aware that Village Law required the Board to annually audit the Clerk-Treasurer's reports. An effective audit of the Clerk-Treasurer's records and reports would have identified the serious deficiencies in the accounting records. Without an annual audit, the Board cannot have assurance that the Clerk-Treasurer properly accounted for all the Village's financial resources, and there is an increased risk that errors or irregularities could occur and remain undetected and uncorrected.

## **Recommendations**

1. The Clerk-Treasurer should maintain cash receipt and disbursement journals, general ledgers and subsidiary revenue and expenditure records for all funds.
2. The Board should ensure that the Clerk-Treasurer prepares and submits necessary financial reports, such as budget-to-actual reports, to the Board, so that it is able to monitor the Village's budget and financial condition.
3. The Board should establish compensating controls over the Clerk-Treasurer's duties such as periodic reviews of the accounting records.
4. The Board should audit all claims prior to payment. The audit should include verifying that all claims are signed to attest that the goods and services were received, and that the claims are a proper charge against the Village.
5. The Clerk-Treasurer or another designated individual should prepare monthly bank reconciliations. If the person who prepares the bank reconciliation is not independent from the record keeping and check signing function, then the Board should review the reconciliations along with the bank statements and canceled checks.
6. The Clerk-Treasurer should file the Village's AUD with OSC in a timely manner.
7. The Board should ensure that an annual audit of the Clerk-Treasurer's records is performed by the Board or by a Village officer, employee or a public accountant, as required by Village Law.

## Sale of Land to Mayor

The Village has a responsibility when selling unneeded real property to secure the best price or the most beneficial terms in the public interest. The Village is not required to conduct a public hearing prior to the sale of the unneeded land, nor is it required to sell at public sale; however, Village officials should take appropriate measures to ensure that the sale price is on the most beneficial terms. In addition, General Municipal Law limits the ability of local officials to enter into certain contracts in which both their personal financial interests, and their public powers and duties come into play. Subject to certain exceptions, the law generally prohibits local officials from having an interest in a contract of their local government when they, individually or as a member of a board, have the power to negotiate, prepare, authorize or approve a contract; audit bills or claims under a contract; authorize or approve payment under a contract; or appoint an officer or employee with those duties. One exception is for a contract when the total consideration payable under the contract, together with the aggregate amount of the consideration payable under all contracts in which the local official has an interest, does not exceed \$750 during a fiscal year.

The Board did not take sufficient action to ensure the sale of unneeded Village-owned property to the Mayor for \$500 was in the best interest of the taxpayers. In February 2012, the Mayor requested that the Village sell him the land adjacent to his house.<sup>4</sup> The Village Trustees passed a motion to sell him the land. The Mayor recused himself from the vote. On April 27, 2012, the Village sold the land to Mayor for \$500 plus closing costs. The Village Board was unable to provide us with any evidence that they advertised or solicited offers on the property sold to the Mayor, that an appraisal was done, or that they otherwise took any steps to determine the market value of the property.

According to the minutes, when determining the price of the land, the Trustees took into consideration that the Mayor had maintained the land for 10 to 15 years. According to Village officials, the property is of no use to anyone else because of the size and slope of the land. However, this parcel is similar in size to other residential properties on the street, including the Mayor's adjacent property. In addition, the Village has no local zoning laws, so the property could be used for either residential or commercial purposes. Village officials have no

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<sup>4</sup>The Mayor had previously requested to purchase this land in July 2007 when he was a Village Trustee. The former Mayor and the other Trustee at that time did not sell the land to him.

way of knowing whether the property could be of value to someone other than the Mayor, because they took no steps to solicit competition for the sale of the land or determine the market value.

The land that the Mayor purchased is a corner lot which has 133 feet of road frontage on NYS Route 3, and 51 feet of road frontage on First Street. The land was one of five separate parcels transferred to the Village from a now defunct paper company in 1958. The land that the Mayor purchased is listed as 0.16 of an acre in the 1958 land transfer. In 2001, the Village sold a smaller 0.09 acre parcel acquired during the 1958 land transfer to another Village resident for \$1,000.

The 0.16 acre parcel purchased by the Mayor was part of a 0.3 acre property that was assessed at \$13,100 for 2012.<sup>5</sup> This property was split when the Mayor purchased it, and the remaining 0.14 acre is still owned by the Village. The Town of Wilna Assessor<sup>6</sup> told us in January 2013 that he has not formally re-assessed the property since it split. The parcel that the Mayor purchased will now have its own tax map number. The Assessor estimated that he will assess it at around \$6,700. While there is no guarantee the Village could have sold the property for at or near the proposed assessed value, had the Board solicited other offers or listed the property on the open market, it may have been able to sell the property for more than \$500 offered by the Mayor. In addition, if the value of the property was greater than \$750 and it was sold to the Mayor at that price, the Mayor would have had a prohibited interest in the contract for the sale of the property.<sup>7</sup>

When Village officials, in their private capacities, conduct business with the Village in which they serve, the public may question the appropriateness of the transactions. Such transactions may create an actual conflict of interest or the appearance of impropriety and/or may result in the improper enrichment of the officials at taxpayer expense.

## **Recommendation**

8. The Board should take appropriate steps to obtain the best price or the most beneficial terms in the public interest when selling unneeded Village-owned property.

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<sup>5</sup>The State equalization rate was 93.5 percent. Overall, property within the Village was assessed at 93.5 percent of market value. When the equalization rate is applied to this assessment, the estimated full market value of the property is about \$14,000.

<sup>6</sup>The Village is a non-assessing unit, so the Town of Wilna assessor does the assessments for the Village.

<sup>7</sup>As a member of the Board, the Mayor has a number of powers and duties that would give rise to a prohibited interest, including the power to authorize or approve the sale of the property. Although the Mayor abstained from voting on the sale of the property, GML does not provide a statutory exception for an individual's abstention from voting.

**APPENDIX A**  
**RESPONSE FROM LOCAL OFFICIALS**

The local officials' response to this audit can be found on the following page.

**VILLAGE OF HERRINGS**  
**35983 NYS Rt 3**  
**Herring, New York 13619**

**Richard Beirman**  
**Mayor**

**Nancy Gerber**  
**Clerk**

**Lance Mieck**  
**Deputy Mayor**  
**Ph # 315-493-1477**

**Ellen Hartle**  
**Trustee**  
**Fax #314-493-1477**

To: [REDACTED]  
From: Richard Beirman Mayor  
SUBJECT: Response letter/exit audit April 8, 2013

In reviewing the draft of the audit report, we do agree with the findings of the audit. Since April 8<sup>th</sup> we have attended an accounting class offered by the State Comptroller's office at BOCES in Canton. We are currently working on a plan of action which will be submitted to the State Comptroller's Office within the 90 day period after the final draft.

Respectfully yours

Richard Beirman  
Mayor  
Village of Herrings



## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

The objective of this audit was to determine whether the Board properly monitored the Village's financial operations. To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We interviewed the Mayor and a Trustee to gain an understanding of the internal controls surrounding Board oversight of the financial duties of the Clerk-Treasurer.<sup>8</sup>
- We verified that all bank statements and canceled checks were available.
- We reconciled adjusted bank balances with the general and sewer fund check registers as of September 30, 2012.
- We obtained lists of payments made to the Village by Jefferson County and New York State totaling \$36,727 for 2011-12 and traced the payments to the deposits on the bank statements.
- We used a random number generator to select a sample of 44 claims totaling \$19,767. The number of claims selected from each fund was weighted in relation to the total number of claims in the population (10 percent). We selected an additional 63 claims totaling \$20,025 based on high risk factors including payments to Village officials, immediate family, department or grocery stores, and utilities (heating fuel and cell phone).
- We tested claims to determine if they were on an abstract, contained sufficient back-up documentation such as invoices and price quotes and included goods/services that appeared to be legitimate and necessary. We checked for evidence of Board approval on the claims and in the Board's official meeting minutes.
- We interviewed the Mayor and a Trustee to determine whether an annual audit is performed and whether any other review is performed on the Treasurer's records and reports. We interviewed the Mayor and reviewed our online database records to determine if the AUDs were filed on a timely basis.
- We interviewed the Mayor, a Trustee, and the Attorney for the Village to gain an understanding of the process used regarding the sale of unneeded Village land to the Mayor.
- We obtained documents related to the sale of the land from the Attorney for the Village. We obtained documents from the previous sale of Village land to a Village resident for comparison from the Jefferson County Clerk's Office. We also contacted the Town of Wilna Assessor and Jefferson County Codes Officer regarding the land the Village sold to the Mayor.

<sup>8</sup> The former clerk-treasurer resigned just prior to our audit fieldwork, so we did not interview her during the audit.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## APPENDIX C

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Andrew A. SanFilippo, Executive Deputy Comptroller  
Nathalie N. Carey, Assistant Comptroller

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