



# Town of Colonie

## Financial Condition

### Report of Examination

Period Covered:

January 1, 2010 — July 12, 2011

2012M-64



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**

August 2012

Dear Town 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 Town 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 Town of Colonie, entitled Financial Condition. 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*

# Introduction

## Background

The Town of Colonie (Town) is located in Albany County with a population of about 80,000. The Town Board (Board) is the legislative body responsible for managing Town operations. The Town Supervisor (Supervisor), who is a member of the Board, serves as the Town's chief executive officer and chief fiscal officer. As chief fiscal officer, the Supervisor is responsible for the receipt, disbursement and custody of Town moneys. The Town Comptroller (Comptroller) is the accounting officer and has the overall responsibility for the Town's accounting records and providing financial reports. Although the Board is primarily responsible for the effectiveness and proper functioning of the Town's internal controls, the Supervisor and department heads also share the responsibility for ensuring that internal controls are adequate and working properly.

The Town provides various services to its residents, including law enforcement, street maintenance, parks and recreation programs, water, sewer, refuse and garbage, library and general government support. The Town's operating funds' budgeted appropriations for the 2011 fiscal year were approximately \$92.8 million funded primarily with real property taxes, sales tax, and user charges. Most of the expenditures incurred in providing these services are accounted for in the general, highway, landfill, water and sewer funds.

In August 2011, the Town signed a 25-year agreement with a waste management company to administer the Town's landfill. The agreement provides for an initial payment of \$23 million, followed by quarterly payments of \$575,000 for five years, and then \$275,000 per quarter for the remaining term of the agreement. Per the agreement, the Town will be entitled to additional revenue if the landfill's capacity is expanded.

## Objective

The objective of our audit was to review the Town's financial condition. Our audit addressed the following related question:

- What is the financial condition of the Town's operating and landfill funds?

## Scope and Methodology

Our overall goal was to assess the financial condition of the Town and the adequacy of the internal controls put in place by officials to safeguard Town assets and monitor financial activities. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. Our initial assessment included evaluations of the following areas:

financial oversight, cash receipts and disbursements, purchasing, payroll and personal services, Town Clerk, Justice Court, public works, water and sewer services, and information technology. Based on that evaluation, we determined that controls appeared to be adequate and limited risk existed in most of the financial areas we reviewed. We did determine risk existed regarding the Town's financial condition and, therefore, we examined the financial condition of the Town for the period January 1, 2010 to July 12, 2011.

We also reviewed certain select financial information for periods back to January 1, 2008 to provide historical perspective in this report. We expanded the scope of our audit forward to December 31, 2011 for additional financial trend analysis and to provide information on the effect of the landfill transaction.

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 C of this report.

**Comments of  
Local Officials and  
Corrective Action**

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Except as specified in Appendix A, Town officials generally agreed with our recommendations and indicated they planned to take corrective action. Appendix B includes our comment on the issue raised in the Town's response letter.

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's office.

## Financial Condition

A local government's financial condition reflects its ability to provide and finance services on a continuing basis. A local government is considered to have sound financial health when it can consistently generate sufficient revenues to finance anticipated expenditures, and maintain sufficient cash flow to pay bills and other obligations when due without relying on short-term borrowings or subsidies from other operating funds. Conversely, local governments in poor financial condition often experience unplanned operating deficits, which occur when total expenditures exceed total revenues. Although operating deficits can be planned as a means of prudently using excess fund balances to finance operations, persistent and recurring operating deficits are usually indicative of structurally imbalanced budgets and financial stress. Accordingly, Town officials must adopt budgets with reasonable estimates of appropriations and revenues and monitor fund balances to ensure that the Town has sufficient cash flow to maintain operations.

As of December 31 2008, the Town's general fund and landfill fund had deficits that totaled \$29.3 million and \$7.6 million. The general fund deficit was caused by the adoption of budgets that did not include reasonable estimates of appropriations and revenues, and the landfill deficit was caused by the recognition of landfill closure costs and transfers of cash to the general fund to subsidize operations. The Town's financial condition has been improving since 2008 due to increases in the tax levy and budget restructuring. In addition, in August 2011, Town officials signed a 25-year agreement to operate the landfill that has effectively eliminated these deficits at the end of 2011.<sup>1</sup> However, Town officials now need to address the reported \$576,000 deficit in the highway fund. They also still need to improve the budget format to make it more informative and useful, and adopt structurally sound budgets where recurring revenues fund appropriations.

### **Actions to Improve Financial Condition**

Town officials are responsible for assessing the Town's financial condition and for taking action to address operating deficits and fund balance deficits that occur as a result of operations. Town officials may consider actions such as increasing the tax levy, restructuring the budget, and finding new sources of revenue to supplement the local tax levy.

In our prior audit dated February 2008,<sup>2</sup> we highlighted years of sizable operating deficits and increasing fund balance deficits. Town

<sup>1</sup> See further discussion of the landfill fund's reported balance in the "Landfill Operating Agreement" section.

<sup>2</sup> Report number 2007M-278

officials also inappropriately used \$6.6 million of sales tax money to fund the general fund when it was supposed to be used to eliminate the tax levy in the highway town-outside village fund. The improper allocation of sales tax continued in 2007 and 2008, significantly increasing the amount due to the highway fund from the general fund. Operating deficits also continued in those two years, with the general fund balance declining to a reported \$29.3 million deficit as of December 31, 2008.

Since 2008, Town officials have improved the Town's financial condition by increasing the tax levy, restructuring the budget, and entering into an operating agreement for the Town's landfill to generate additional revenues. As a result, they have been able to reduce the deficits and repay the sales tax liability to the highway fund, as follows:

General Fund Tax Levy and Budget Restructuring — The Town's 2009 budget featured a tax increase for the general fund, including the implementation of a "one-time tax" of \$5.7 million to help address the deficit situation. That budget also included funding of \$8 million to begin repaying the sales tax owed to the highway fund.<sup>3</sup> In 2008, the Town increased interfund chargeback revenues. This is the amount of general governmental support expenditures incurred in the general fund that are allocated to the Town's other funds. In 2010, these chargebacks included employee benefits and central fleet expenditures of approximately \$2 million from prior years that had not been charged to the corresponding fund. As of December 31, 2010, the general fund's deficit had been reduced to \$18.2 million.

Landfill Operating Agreement — As of December 31, 2008, the landfill fund had a reported deficit of \$7.6 million. The major components contributing to this deficit were the recognition of future landfill closure and post-closure liabilities<sup>4</sup> and the transfer of significant cash resources to the general fund to subsidize general fund operations. The landfill's deficit increased to \$10.5 million as of December 31, 2010, again primarily due to the closure-related liability and subsidies to the general fund.

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<sup>3</sup> The Board levied real property taxes of \$6.6, \$7.9, and \$8.0 million in the highway town-outside village fund for the 2006, 2007 and 2008 fiscal years. The Town's share of sales tax moneys are supposed to be applied first to eliminate the tax levy in the highway town-outside village fund. This was not done. Instead, sales tax moneys were improperly allocated to the general fund in those years. In the 2009, 2010, and 2011 budgets, the Town appropriated funds to repay these amounts to the highway town-outside village fund.

<sup>4</sup> Although the landfill closure and post-closure costs will be paid only near or after the date that the landfill stops accepting waste, the Town reports these closure and post-closure costs in the landfill fund based on the amount of landfill capacity used as of each balance sheet date, as required by generally accepted accounting principles (GAAP).

In August 2011, the Town signed a 25-year agreement with a waste management company (Company) to manage and operate the Town's landfill. The terms of the agreement provided for an upfront payment of \$23 million, quarterly payments of \$575,000 for five years, and quarterly payments of \$275,000 for the next twenty years. Payments from the Company to the Town have the potential to increase in the future, contingent on the approval of the expansion of the landfill. Per the agreement, the Company will be responsible for all of the closure and post-closure costs related to the landfill. Those costs totaled \$15 million at the end of 2010. The Town maintains title to the landfill and it will remain an asset on the Town's books.

Following the adoption of the agreement and receipt of the initial payments, \$13.9 million was transferred to the general fund to help eliminate that fund's deficit, along with a budgeted \$3,150,000 subsidy from the landfill fund. Because of the payments from the Company, pursuant to the agreement, and the Company's assumption of the landfill's closure and post-closure cost liability, both the general fund and landfill fund have effectively eliminated their deficits at the end of 2011. The general fund reports a total positive fund balance of approximately \$426,000 as of December 31, 2011. The landfill fund, on the other hand, still reports a total negative net asset position at the end of 2011. However, this deficit results from the application of certain accounting treatments<sup>5</sup> used for the receipt of proceeds from the landfill agreement and for the landfill closure liability.

## **Budgeting**

Despite these improvement efforts, there is still room for improvement in the Town's budgeting process. The Town still needs to improve its budget format to make it more informative and useful, and adopt structurally sound budgets where recurring revenues fund appropriations. There have been problems with revenue shortfalls or overexpenditures in 2009, 2010, and 2011, and these shortfalls and overexpenditures have been funded through various one-shot revenues, which cannot be counted on in future budgets.

The Board is responsible for preparing, adopting, and amending budgets based on reasonable estimates of appropriations and revenues.

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<sup>5</sup> Even though the Town received a lump-sum upfront payment because of the landfill operating agreement, the revenue has been deferred over the life of the agreement, rather than recognized in total in 2011. This is because of the interpretation by the Town's accounting firm of a recent governmental accounting pronouncement. The landfill closure liability, totaling approximately \$15.7 million as of December 31, 2011, has been retained on the books of the Town's landfill fund. The Town's accounting firm is of the opinion that the ultimate liability remains with the Town, as the permit holder, even though the agreement specifies that the Company (and not the Town) is solely responsible for all closure and post-closure costs. The landfill fund therefore still reports a negative balance at year-end as a result of these interpretations and accounting applications.

In preparing the budget, the Board is responsible for establishing appropriations at a level sufficient to finance planned services, estimating Town revenues and other financing sources, determining whether the Town will have unexpended surplus funds<sup>6</sup> to help fund the ensuing year's operations, and establishing the tax levy. Prudent fiscal management also requires the Board to continually monitor financial operations and amend the budget, when necessary, to ensure that appropriations are not overspent.

Budget vs. Actual Results — Historically, the Town has not adopted structurally balanced budgets with conservative, realistic estimates so that the current year's appropriations can be funded by recurring revenues. As a result, it has experienced revenue shortfalls and overexpenditures affecting its financial condition.

For example, although the general fund had a \$7.4 million operating surplus in 2009, this was \$6.2 million less than what Town officials had planned because of net revenue shortfalls totaling \$4.7 million, and net overexpenditures totaling \$1.5 million. Significant variances are illustrated in the following table:

<b>Table 1: 2009 Budget vs. Actual Results</b>			
	<b>Budgeted Amount</b>	<b>Actual Amount</b>	<b>Over/(Under) Budget</b>
<b>Revenues</b>			
Sales Tax	\$17,281,458	\$15,177,531	(\$2,103,927)
Sale of Equipment	\$1,060,000	\$3,110	(\$1,056,890)
Charges in Lieu of Taxes	\$750,000	\$130,832	(\$619,168)
Mortgage Tax	\$2,840,000	\$2,367,426	(\$472,574)
EMS Revenue	\$4,100,000	\$3,679,672	(\$420,328)
Landfill Fees	\$2,787,906	\$2,513,520	(\$274,386)
<b>Expenditures</b>			
Police Personal Services	\$5,408,443	\$5,783,950	\$375,507
Employee Benefits	\$8,452,115	\$9,669,956	\$1,217,841

<sup>6</sup> The Governmental Accounting Standards Board (GASB) issued Statement 54, which replaces the fund balance classifications of reserved and unreserved with new classifications: nonspendable, restricted, and unrestricted (comprising committed, assigned, and unassigned funds). The requirements of Statement 54 are effective for fiscal years ending June 30, 2011 and beyond. To ease comparability between fiscal years ending before and after the implementation of Statement 54, we will use the term 'unexpended surplus funds' to refer to that portion of fund balance that was classified as unreserved, unappropriated (prior to Statement 54), and is now classified as unrestricted, less any amounts appropriated for the ensuing year's budget (after Statement 54).

In 2010, although the general fund had a \$3.8 million operating surplus, this was again less than planned because of net revenue shortfalls totaling \$1 million, and net overexpenditures totaling \$1.6 million. Significant budget variances are illustrated in the following table:

<b>Table 2: 2010 Budget vs. Actual</b>			
	<b>Budgeted Amount</b>	<b>Actual Amount</b>	<b>Over/(Under) Budget</b>
<b>Revenues</b>			
Sale of Equipment	\$1,598,250	\$144,039	(\$1,454,211)
Mortgage Tax	\$2,840,000	\$1,929,436	(\$910,564)
Sales Tax	\$16,336,358	\$15,597,021	(\$739,337)
Landfill Fees	\$2,788,000	\$2,500,000	(\$288,000)
EMS Revenue	\$3,851,000	\$3,587,999	(\$263,001)
Admin. Chargebacks	\$2,390,000	\$5,076,414	\$2,686,414
<b>Expenditures</b>			
Employee Benefits	\$9,121,900	\$11,112,845	\$1,990,945

Furthermore, in 2011, the general fund had an operating surplus (not including the payment from the landfill operating agreement) of about \$4.8 million. Again, however, this was less than planned because of net revenue shortfalls totaling \$600,000, and net overexpenditures totaling \$1.1 million. A major contributor toward the net revenue shortfall total was a budgetary estimate of \$870,000 for the sale of real property for which no revenue was realized. The overexpenditures were primarily for health insurance, as in prior years.

Finally, these budgeting practices have begun to affect the financial condition of highway town-outside village fund, which, at the end of 2011, reported a \$576,000 deficit. This occurred primarily due to overexpenditures of over \$1 million, including overexpenditures of \$815,000 for street maintenance, and \$361,000 for employee benefits.

The Board is responsible for adopting budgets that include reasonable estimates of recurring revenues and expenditures, consider the costs of all new activities or programs, and reflect projected cost increases. However, the Board has consistently overbudgeted for revenues such as the sale of equipment, sales tax, and mortgage tax, and underbudgeted for expenditures such as employee benefits for retirement and health insurance. If these budgeting practices continue there is a risk that the financial condition of the general fund could decline with a return to the poor financial condition experienced in prior fiscal years, and of a continued decline in the financial condition of the highway town-outside village fund.

Format and Content of the Town's Budget — For the Town's budget document to be a useful tool for Town management and the residents of the Town, it must conform to the provisions of Town Law and guidance prescribed by the Office of the State Comptroller. The budget should contain actual revenues and expenditures for the last completed fiscal year, and revenue estimates and appropriations for the current year as amended to date. In addition, there should be a schedule of fund balance, with a breakdown of the amounts appropriated, unappropriated, and restricted. Sound budget practices also require the inclusion of a budget summary message with the proposed budget. The purpose of this type of summary is to provide a brief, easily understandable report of the main features of the Town's budget to the Board and the taxpayers. Main features include changes from the prior budget such as appropriations for capital projects, substantial increases in specific appropriations, appropriations for new services, the financial condition of the Town, new or drastically changed revenue sources, or any other item of interest to the Board and the taxpayers.

The Town's 2012 proposed budget document did not contain sufficient information to make it useful, either in assisting Town management in planning and monitoring the financial operations of the Town, or in providing the public with enough information about the Town's annual financial plan to allow for meaningful input at the budget hearing. The budget document only included estimated revenues and appropriations of the adopted 2011 budget and the proposed estimates for the 2012 budget. It did not include any information about actual revenues and expenditures of the prior completed fiscal year, the 2011 amended budget, or a schedule of the estimated fund balance that could be used to finance operations. Finally, the budget did not include an adequate budget summary message. As a result of the inadequate budget format, the Board lacks sufficient information for budgetary decision-making and monitoring. It also limits the understandability and transparency of the budget for Town taxpayers.

## **Recommendations**

1. The Board should adopt structurally balanced budgets with conservative, realistic estimates that enable operations to be financed without relying on fund balance or non-recurring revenue sources. The Board should closely monitor budgetary estimates against actual results throughout the year and take corrective action as required.
2. The Board should use a budget format that includes:
  - Actual revenues and expenditures for the last completed fiscal year

- The current year's budget, showing revenue estimates and appropriations as amended to date
- Estimated fund balance, with a breakdown of the amounts appropriated, unappropriated, and restricted
- A descriptive budget summary message.

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

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



Paula A. Mahan  
Town Supervisor

# TOWN OF COLONIE

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August 10, 2012

Jeffrey P. Leonard  
Chief Examiner  
Office of the State Comptroller  
One Broad Street Plaza  
Glens Falls, New York 12801-4396

Dear Mr. Leonard:

The Town of Colonie is pleased that after a comprehensive audit, the Office of the State Comptroller finds significant improvement in its financial condition. We are also gratified that the OSC finds that our existing financial controls are adequate and limit risk in most financial areas.

As stated in the OSC audit dated February 2008, this administration inherited years of sizable operating and fund balance deficits. Nevertheless we have successfully eliminated both our General Fund and Landfill Fund deficits. We ended 2011 with a \$700,000 aggregate governmental fund balance, the Town's first fund balance since 2005.

We acknowledge the following recommendations provided by the OSC:

1. The Board should adopt structurally balanced budgets with conservative, realistic estimates that enable operations to be financed without relying on fund balance or non-recurring revenue sources. The Board should closely monitor budgetary estimates against actual results throughout the year and take corrective action as required.
2. The Board should use a budget format that includes:
  - a. Actual revenue and expenditures for the last completed fiscal year
  - b. The current year's budget, showing revenue estimates and appropriations as amended to date
  - c. Estimated fund balance, with a breakdown of the amounts appropriated, unappropriated, and restricted
  - d. A descriptive budget summary message

While we concur with the above recommendations, we wish to note that as part of our ten-year financial plan we have been actively working on these common goals and we will continue our efforts to realize all of these recommendations. The following proactive measures were adopted prior to inception of this audit.

First, to improve budget transparency, in 2008 the Town adopted a line item budget for 2009.

Also in 2008, the Town established a budget committee made up of designated Town Board members and key department heads. The committee is charged with monitoring budgetary estimates against actual results on a monthly basis in preparation for the annual budget, essentially serving as our internal control board for the Town throughout the year.

In addition, the entire Town Board receives monthly Budget Versus Actual Reports and reviews them with the appropriate department heads.

We also note that the budget shortfalls mentioned in the OSC report were not unique to the Town but were rather a result of extremely depressed economic conditions nationwide. As the State Comptroller noted in the “New Fiscal Realities Challenge Local Governments” report dated August 2012, two areas with drastic decreases due to the Great Recession were sales tax and mortgage tax.

Fortunately, there have been significant improvements in our sales and mortgage tax budgets. Sales tax received in 2011 was \$1 million more than budgeted and mortgage taxes were significantly closer to our budgeted amount.

The Town of Colonie will continue to face and overcome these economic challenges by carefully analyzing our budget and making informed decisions to provide all necessary services with the resources available.

Finally, while we agree with the amount referenced related to a Highway Fund deficit, we respectfully disagree that the deficit was generated in 2011. A Highway Fund deficit of \$1.3 million was created in 2005. From 2006 to 2008, the previous administration inappropriately applied \$21 million in sales tax to defray Highway Fund deficits.

See  
Note 1  
Page 15

From 2009 to 2011, this administration repaid in its entirety the \$21 million in sales tax inappropriately applied by the previous administration, believing that to be the sum total of the Highway Fund deficit. The \$500,000 deficit had been masked due to issues surrounding the inappropriate application of sales tax revenue from 2006 to 2008. It is not additional deficit; rather it is part of the original deficit, which resurfaced from 2005.

Should you have questions regarding this response, please contact me at 518-783-2728.

Finally, we greatly appreciate the guidance of the Office of the State Comptroller as the Town of Colonie works to continue strengthening its financial position.

Sincerely,

Paula A. Mahan  
Town Supervisor

## **APPENDIX B**

### **OSC COMMENT ON THE TOWN'S RESPONSE**

#### Note 1

We do not dispute the fact that a highway fund deficit of \$1.3 million existed at the end of 2005. However, at the beginning of the 2011 year, the Town reported a \$6.7 million positive fund balance for the highway fund. In its 2011 budget, the Town appropriated \$6.5 million of that fund balance toward 2011 operations. If actual operating results for 2011 had been in line with the budgeted plan, the highway fund would have ended the 2011 year with a small positive balance. However, due primarily to overexpenditures, the highway fund ended the 2011 year with a reported \$576,318 deficit fund balance as a result of financial activity in 2011.

## APPENDIX C

### AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to assess the financial condition of the Town and the adequacy of the internal controls put in place by officials to safeguard Town assets and monitor financial activities. To accomplish this, we performed an initial assessment of the internal controls so that we could design our audit to focus on those areas most at risk. During the initial assessment, we interviewed Town officials, performed limited tests of transactions, and reviewed pertinent documents such as Town policies, Board minutes, and financial records and reports. Further, we reviewed the Town's internal controls and procedures over the computerized financial databases to help ensure that the information produced by such systems was reliable.

After reviewing the information gathered during our initial assessment, we determined where weaknesses existed, and evaluated those weaknesses for the risk of potential fraud, theft and/or professional misconduct. Based on that evaluation we determined that controls appeared to be adequate and limited risk existed in most of the financial areas we reviewed. We then decided upon the reported objective and scope by selecting for audit the area most at risk. We selected financial condition for further testing.

To accomplish the objective of this audit and obtain valid audit evidence, our procedures included the following:

- We reviewed bank statements and reconciliations to determine the cash balances as of June 30, 2011.
- We reviewed receivable and payable schedules to determine if the reported amounts were accurate as of June 30, 2011.
- We conducted a search for unrecorded liabilities to determine if the accounts payable schedule was complete as of June 30, 2011.
- We reviewed the capital asset schedule for the landfill fund and estimated depreciation expense as of June 30, 2011.
- We reviewed debt schedules and schedules of other liabilities to determine if the reported amounts were accurate as of June 30, 2011.
- We reviewed restricted fund balances to determine if they were properly accounted for.
- We compared budgeted data to actual revenues and expenditures to identify significant differences.
- We reviewed the 2012 budget to determine if the budget format conformed to the provisions of Town Law and guidance prescribed by the Office of the State Comptroller.

- We examined 2011 year-end financial data as reported by the Town.
- We reviewed the Town’s “Solid Waste Facility Operating Agreement”.
- We interviewed Town officials regarding the accounting treatment for landfill transactions.

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 D

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