

COMPLIANCE AUDIT

Wilkes-Barre Township Volunteer Firefighters' Relief Association

Luzerne County, Pennsylvania

For the Period

January 1, 2013 to December 31, 2014

November 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Mr. Larry Ace Jr., President
WILKES-BARRE TOWNSHIP VOLUNTEER FIREFIGHTERS'
RELIEF ASSOCIATION
Luzerne County

We have conducted a compliance audit of the Wilkes-Barre Township Volunteer Firefighters' Relief Association pursuant to authority derived from Article VIII, Section 10 of the Constitution of the Commonwealth of Pennsylvania, Section 403 of The Fiscal Code, Act of April 9, 1929, (P.L. 343, No. 176), and mandated by the Volunteer Firefighters' Relief Association Act, as consolidated by the Act of November 23, 2010 (P.L. 1181, No. 118), at 35 Pa.C.S. § 7411 *et seq.*, for the period January 1, 2013 to December 31, 2014.

The objectives of the audit were:

1. To determine if the volunteer firefighters' relief association took appropriate corrective action to address the findings contained in our two prior audit reports.
2. To determine if the volunteer firefighters' relief association received state aid and expended state aid and accumulated relief funds in compliance with applicable state laws, contracts, bylaws, and administrative procedures.

Our audit was limited to the areas related to the objectives identified above.

Volunteer firefighters' relief association officers are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Wilkes-Barre Township Volunteer Firefighters' Relief Association's administration of state aid and accumulated relief funds complies with applicable state laws, contracts, bylaws, and administrative procedures, including the safeguarding of assets. Volunteer firefighters' relief association officers are responsible for complying with applicable state laws, contracts, bylaws, and administrative procedures. It is our responsibility to perform procedures to obtain sufficient, appropriate evidence to the extent necessary to satisfy the audit objectives. We believe that our audit provides a reasonable basis for our conclusions.

During the prior audit period, January 1, 2007 to December 31, 2012, we were precluded from determining whether the volunteer firefighters relief association took appropriate corrective action to address the findings contained in our prior audit report and whether expenditures totaling \$100,872 made during the years 2007, 2008, and 2009 were approved by the relief association membership or made in compliance with Act 118 requirements. We were also precluded from determining whether the relief association made any expenditures during the years 2010, 2011, and 2012 and, if so, whether such expenditures were made in compliance with Act 118 requirements.

We were not able to obtain an independent confirmation of cash balances directly from the financial institutions. As of December 31, 2012, the reported cash balance was \$388. The current relief association officials do not have signature authority for the account.

Based on our audit procedures, we conclude that, except for the effects, if any, of the matters described in the preceding paragraphs, for the period January 1, 2013 to December 31, 2014:

- During the period January 1, 2013 through December 31, 2014, the Wilkes-Barre Township Volunteer Firefighters' Relief Association had no account activity. In 2015, the relief association elected new officers and started conducting relief association business.
- The Wilkes-Barre Township Volunteer Firefighters' Relief Association took appropriate corrective action to address one of the three findings contained in our 2006 audit report. However, the Wilkes-Barre Township Volunteer Firefighters' Relief Association failed to take appropriate corrective action to address the two remaining findings contained in our 2006 audit report as listed below and discussed in the Status of Prior Findings section of this report. Because of the significance of the matters described in the finding below and contained in this report, the Department of the Auditor General withheld allocations of state aid to the Wilkes-Barre Township Volunteer Firefighters' Relief Association from 2010 through– 2014 calendar years.

Finding No. 1 – Noncompliance With Prior Audit Recommendation –
Undocumented Loans And Erroneous Withdrawal Of Funds

Finding No. 2 – Failure To Maintain Surety (Fidelity) Bond Coverage

- The Wilkes-Barre Township Volunteer Firefighters' Relief Association, as of December 31, 2014, had a reported cash balance of \$98. The reduction in the cash balance from December 31, 2012 to December 31, 2014 appears to be the result of banking fees accumulated during that period.

The only known relief association officer during the prior audit period was charged and later convicted of theft concerning programs receiving federal funds.

The contents of this report were discussed with the management of the Wilkes-Barre Township Volunteer Firefighters' Relief Association and, where appropriate, their response has been included in the report.

October 2, 2015

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

EUGENE A. DEPASQUALE

Auditor General

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BACKGROUND

Pursuant to Article VIII, Section 10 of the Constitution of the Commonwealth of Pennsylvania, Section 403 of The Fiscal Code, Act of April 9, 1929, (P.L. 343, No. 176), and the Volunteer Firefighters' Relief Association Act, as consolidated by the Act of November 23, 2010, (P.L. 1181, No. 118), at 35 Pa.C.S. § 7411 *et seq.*, the Department of the Auditor General's duty is to audit the accounts and records of every volunteer firefighters' relief association to determine that funds received under the Foreign Fire Insurance Tax Distribution Law, Act of December 18, 1984, (P.L. 1005, No. 205), as amended, 53 P.S. § 895.701 *et seq.* (commonly referred to as Act 205), are properly expended.

The Wilkes-Barre Township Volunteer Firefighters' Relief Association is a charitable organization that was formed primarily to afford financial protection to volunteer firefighters and to encourage individuals to participate in volunteer fire service.

Act 118 governs the overall operation of the volunteer firefighters' relief association. The relief association's bylaws define the specific operational procedures by which the volunteer firefighters' relief association conducts business. To fulfill its primary purpose, Act 118 authorizes specific types of expenditures and prescribes appropriate volunteer firefighters' relief association investment options. Within the parameters established by Act 118, it is the responsibility of the volunteer firefighters' relief association to choose investments in a proper and prudent manner.

Volunteer firefighters' relief associations receive public tax monies, and the association officers therefore have a responsibility to the public to conduct the association's financial affairs in a businesslike manner and to maintain sufficient financial records to support the propriety of all association transactions. Volunteer firefighters' relief association officers are also responsible for ensuring that the association operates in accordance with applicable state laws, contracts, bylaws and administrative procedures.

Act 205 sets forth the computation of the Foreign Fire Insurance Tax Distribution paid to each applicable municipality throughout the Commonwealth of Pennsylvania. The amount of the distribution is based upon the population of each municipality and the market value of real estate within the municipality. Upon receipt of this distribution, the municipality must allocate the funds to the volunteer firefighters' relief association of the fire service organization or fire service organizations, which is or are recognized as providing the service to the municipality.

BACKGROUND – (Continued)

As we discussed in our letter to the relief association president, we attempted to conduct an audit of the Wilkes-Barre Township Relief Association for the period January 1, 2007 to December 31, 2012. We released a report in July of 2013 indicating that we were unable to complete the audit engagement due to lack of cooperation from relief association officials. Due to the relief association's lack of cooperation, we were unable to gather sufficient and appropriate evidence to allow us to perform our compliance audit as required under Act 118. However, we were able to document the status of the relief association's compliance with prior year audit recommendations. We also documented the existence of several internal control deficiencies within the administration of the relief association. The deficiencies included the relief association's inadequate financial record keeping system, its failure to maintain minutes of meetings, and its failure to maintain a complete and accurate equipment roster. Finally, the relief association maintained inadequate signatory authority over the disbursement of funds, and failed to provide a list of relief association officers.

During our current audit period of January 1, 2013 to December 31, 2014, the relief association did not receive state aid and the funds available for disbursement were limited to the \$388 account balance as of December 31, 2012. While this account balance was \$98 on December 31, 2014, no current or prior officers could provide documentation as to the disposition of this account. Therefore, due to the dormant state of the relief association, we were unable to determine if the relief association established sufficient controls to ensure that state aid received will be expended in accordance with Act 118 requirements.

In 2015, the Wilkes Barre Volunteer Fireman's Relief Association elected new officers. The new officers have begun taking steps to insure future compliance with Act 118 requirements. We verified steps taken including the opening of a new bank account, the conduct of meetings of officers and members, the documentation of meeting minutes, and obtaining of officer bond coverage.

BACKGROUND – (Continued)

State aid for the years 2010 through 2014 was withheld from Wilkes-Barre Township due to the relief association's noncompliance with Act 118 and lack of cooperation from the former relief association official. Therefore, the relief association did not receive any state aid during the audit period.

The volunteer firefighters' relief association and the affiliated fire service organizations are separate, legal entities. The Wilkes-Barre Township Volunteer Firefighters' Relief Association is affiliated with the following fire service organization:

The Wilkes-Barre Township Fire Department

The only identified relief official during the prior audit pled guilty to theft charges concerning programs receiving federal funds and was ordered to pay restitution of \$45,000 to the affiliated fire department. Furthermore, during the years 2008 and 2009, this individual transferred \$12,000 of relief association funds into the affiliated fire department account in violation of Act 118 requirements, as disclosed in Finding No. 1 in this report.

WILKES-BARRE TOWNSHIP VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
STATUS OF PRIOR FINDINGS

COMPLIANCE WITH PRIOR AUDIT FINDING AND RECOMMENDATION

The Wilkes-Barre Township Volunteer Firefighters' Relief Association has complied with one of the three 2006 audit findings and recommendations, as follows:

- Failure To Obtain A Federal Tax Identification Number

By receiving a federal tax identification number and furnishing it to the financial institution in which the relief association maintains funds.

NONCOMPLIANCE WITH PRIOR AUDIT FINDINGS AND RECOMMENDATIONS

The Wilkes-Barre Township Volunteer Firefighters' Relief Association has not complied with two of the three 2006 audit findings. These findings are noted below and discussed in detail in the Finding and Recommendation section of this report:

- Undocumented Loans

- Erroneous Withdrawal of Funds

We are concerned by the relief association's failure to correct those previously reported audit findings. The association management should strive to implement the recommendations and corrective actions noted in this audit report. These findings are again discussed in detail in Finding No. 1 of this report.

WILKES-BARRE TOWNSHIP VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Undocumented Loans And Erroneous Withdrawal Of Funds

Condition: As cited in our 2006 audit report, the relief association made three loans to the affiliated fire department totaling \$17,000 without a formal written loan agreement. In addition, we cited the relief association for making an erroneous \$1,633 withdrawal from the relief association's account towards the affiliated fire department's loan payment. On October 27, 2008, in order to comply with our prior audit recommendations, the relief association executed a loan agreement with the affiliated fire department to repay the relief association \$55,121. The loan agreement was to satisfy all loans and the \$1,633 erroneous withdrawal reported in the 2006 audit. The \$55,121 loan was secured by a piece of fire apparatus (1985 aerial duplex) with a documented appraised value of \$68,700. The affiliated fire department was scheduled to begin making loan payments on the \$55,121 loan in October 2008; however, the affiliated fire department did not make any of the required loan payments.

Furthermore, during the period January 1, 2008 to December 31, 2009, the following relief association checks written to and deposited into the affiliated fire department account lacked supporting documentation:

<u>Date</u>	<u>Check No.</u>	<u>Payee Description</u>	<u>Amount</u>
01/02/2008	1109	Fire Department	\$ 1,000
12/02/2008	1111	Fire Department	5,000
01/09/2009	1112	Fire Department	2,500
11/16/2009	1115	Fire Department	3,500
Total Erroneous Withdrawals			<u>\$ 12,000</u>

The officer that transferred the monies to the fire department plead guilty to theft concerning programs receiving federal funds and was ordered to provide restitution of \$45,000 to the affiliated fire department.

WILKES-BARRE TOWNSHIP VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Criteria:

The terms of the loan agreement state that payments of \$6,462 will be due to the relief association on an annual basis, beginning on October 1, 2008.

Act 118 at 35 Pa.C.S. § 7418(a) states:

The Office of Auditor General shall have the power and its duty shall be to audit the accounts and records of every volunteer firefighters' relief association receiving money under Chapter 7 of the Act of December 18, 1984 (P.L. 1005, No. 205), known as the Municipal Pension Plan Funding Standard and Recovery Act, as far as may be necessary to satisfy the Auditor General that the money received was or is being expended for no purpose other than that authorized by this subchapter. Copies of all audits shall be furnished to the Governor.

Without adequate supporting documentation, such as invoices, this department is unable to determine whether relief association funds were expended for the purposes authorized by Act 118. Furthermore, good business practices dictate that supporting documentation be maintained to verify the proprietary of all financial transaction.

Cause: Even though notified of the loan requirements during the 2006 audit, relief association officials neglected to establish adequate internal controls procedures to ensure that loan payments would be collected in accordance with the payment schedule outlined in the loan agreement and that new loans would be properly documented.

Effect: Failure to adequately administer loans to the affiliated fire department led to an environment in which a relief association official misappropriated funds.

Recommendation: We recommend that the relief association be reimbursed \$67,121 for the loans and erroneous withdrawals. We also recommend that the relief association officials maintain supporting documentation for all future expenditures. For further guidance, please refer to the Auditor General's publication, MANAGEMENT GUIDELINES FOR VOLUNTEER FIREFIGHTERS' RELIEF.

WILKES-BARRE TOWNSHIP VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Management's Response: Relief association management agreed with the finding as presented at the audit exit conference and, as a result of our audit, the township reimbursed the relief association \$67,121 for the undocumented loans and erroneous withdrawals on October 6, 2015.

Auditors Conclusion: We reviewed documentation verifying that the reimbursement of \$67,121 was received by the relief association. Compliance for maintaining appropriate documentation for expenditures made during the next audit period will be subject to verification through our next audit.

Finding No. 2 – Failure To Maintain Surety (Fidelity) Bond Coverage

Condition: The relief association failed to maintain Surety (Fidelity) bond coverage on its authorized disbursing officer, as required by Act 118. The relief association's Surety (Fidelity) bond coverage expired on October 30, 2013. As of December 31, 2014, the relief association's cash assets totaled less than \$98.

Criteria: Act 118 at 35 Pa.C.S. § 7415(c)(4) states, in part, that:

. . . the disbursing officer, whether designated treasurer, comptroller, financial secretary or otherwise, shall be bonded by corporate surety for faithful performance of duty. The amount of the bond shall be at least as great as the maximum cash balance in current funds of the association at any time during the fiscal year, and the premium on the bond shall be a proper charge against the funds of the association.

Cause: Relief association officials indicated that they were unaware of the Act 118 provision requiring the maintenance of Surety (Fidelity) bond coverage on the relief association's authorized disbursing officer.

Effect: As a result of the mismanagement of the relief association by the former relief association officials, including the lack of bonding for a disbursing officer, the relief association's cash assets were not adequately safeguarded.

Recommendation: We recommend that the relief association officials obtain Surety (Fidelity) bond coverage on the relief association's authorized disbursing officer in an amount greater than the relief association's maximum cash balance, as required by Act 118. For further guidance, please refer to the Auditor General's publication, MANAGEMENT GUIDELINES FOR VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.

WILKES-BARRE TOWNSHIP VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Management's Response: Relief association management agreed with the finding as presented at the audit exit conference and, as a result of our audit, the relief association obtained Surety (Fidelity) bond coverage in the amount of \$300,000 with a one year term, effective October 30, 2015.

Auditor Conclusion: We reviewed documentation verifying that the relief association did obtain Surety (Fidelity) bond coverage in the amount of \$300,000. Compliance for sufficient bond coverage during the next audit period will be subject to verification through our next audit.

WILKES-BARRE TOWNSHIP VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
POTENTIAL WITHHOLD OF STATE AID

Prior to this audit being conducted, the Department withheld state aid from the relief association for the years 2010 through 2014 as a result of the relief association's failure to comply with our previously reported audit recommendations in Finding No. 1. During the conduct of this audit, the 2015 state aid to the relief association was also withheld due to continued noncompliance. However, after the completion of our audit fieldwork, the relief association provided the Department with supporting documentation to verify compliance with our reimbursement recommendation reported in Finding No. 1 of this audit report. Still, we were unable to determine whether sufficient controls exist over relief association operations and whether the relief association can assure proper oversight of the state aid to be received by the relief association. Therefore, we intend to complete an on-site verification or audit of the relief association's compliance with our current audit findings and an evaluation of controls established by the association to ensure the proper oversight of its accounts and assets within twelve (12) months of the release of state aid to the relief association.

WILKES-BARRE TOWNSHIP VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Wilkes-Barre Township Volunteer Firefighters' Relief Association Governing Body:

Mr. Larry Ace Jr.	President
Mr. James Edwards	Vice President
Mr. Walter Halecki	Secretary
Mr. Stephen Kelly	Treasurer

A report was also distributed to the following municipality, which allocated foreign fire insurance tax monies to this relief association:

Ms. Renee Faust Wilkes-Barre Township	Secretary
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This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 229 Finance Building, Harrisburg, PA 17120; via email to: news@PaAuditor.gov.