

COMPLIANCE AUDIT

Jonathan R. Davis Volunteer Firemen's Relief Association

Luzerne County, Pennsylvania

For the Period

January 1, 2019, to December 31, 2021

March 2023



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

Mr. John Hutchins, President
Jonathan R. Davis Volunteer Firemen's
Relief Association
Luzerne County

We have conducted a compliance audit of the Jonathan R. Davis Volunteer Firemen's Relief Association (relief association) for the period January 1, 2019, to December 31, 2021. The audit was conducted pursuant to authority derived from Article VIII, Section 10 of the Constitution of the Commonwealth of Pennsylvania; Section 403 of The Fiscal Code, 72 P.S. § 403; and the Volunteer Firefighters' Relief Association Act ("VFRA Act"), see 35 Pa.C.S. § 7418.

The objectives of the audit were:

1. To determine if the relief association took appropriate corrective action to address the findings contained in our prior audit report.
2. To determine if the relief association complied with applicable state laws, contracts, bylaws, and administrative procedures as they relate to the receipt of state aid and the expenditure of relief association funds.

Our audit was limited to the areas related to the objectives identified above and was not, nor was it required to be, conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States.

Relief association officers are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the 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. 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.

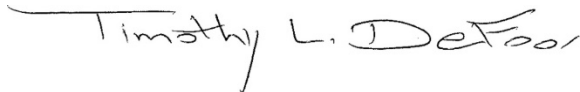
We were not able to obtain an independent confirmation of the cash balance directly from the financial institution. Therefore, while the relief association provided copies of bank statements that indicated that, as of December 31, 2021, the relief association had a cash balance of \$8,821, we were not able to verify this cash balance.

Based on our audit procedures, we conclude that, except for the effects, if any, of the matter described in the preceding paragraph, for the period January 1, 2019, to December 31, 2021:

- The relief association took appropriate corrective action to address the findings contained in our prior audit report.
- The relief association, in all significant respects, complied with applicable state laws, contracts, bylaws, and administrative procedures as they relate to the receipt of state aid and the expenditure of relief association funds, except as noted in the finding listed below and discussed later in this report.

Finding – Excessive Rental Fees Paid For Rental Space

The contents of this report were discussed with the management of the relief association and, where appropriate, their response has been included in the report. We would like to thank the relief association officials for the cooperation extended to us during the conduct of the audit.



Timothy L. DeFoor
Auditor General
March 7, 2023

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BACKGROUND

Pursuant to Article VIII, Section 10 of the Constitution of the Commonwealth of Pennsylvania, Section 403 of The Fiscal Code¹, and the Volunteer Firefighters' Relief Association Act² ("VFRA Act"), 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 Law³ (commonly referred to as Act 205) are properly expended.

The 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.

The VFRA Act governs the overall operation of volunteer firefighters' relief associations. Relief association bylaws define the specific operational procedures by which relief associations conduct business. To fulfill its primary purpose, the VFRA Act authorizes specific types of expenditures and prescribes appropriate volunteer firefighters' relief association investment options. Within the parameters established by the VFRA Act, it is the responsibility of relief associations 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 that is or are recognized as providing the service to the municipality.

The relief association was allocated state aid from the following municipalities:

<u>Municipality</u>	<u>County</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Lake Township	Luzerne	\$2,319	\$2,331	\$2,092
Lehman Township	Luzerne	\$7,151	\$7,158	\$6,324

¹ 72 P.S. § 403 (as last amended by Act 44 of 2017).

² 35 Pa.C.S. § 7411 *et seq.* See specifically, 35 Pa.C.S. § 7418 (amended by Act 91 of 2020).

³ 53 P.S. § 895.701 *et seq.* (Act 205 of 1984, as amended by Act 119 of 1990).

BACKGROUND – (Continued)

Based on the relief association’s records, its total cash as of December 31, 2021, was \$8,821, as illustrated below:

Cash	<u>\$ 8,821</u>
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Based on the relief association’s records, its total expenditures for the period January 1, 2019, to December 31, 2021, were \$28,660, as noted below. The accuracy of these expenditures was evaluated as part of the Department’s audit to conclude on the relief association’s compliance with applicable state laws, contracts, bylaws, and administrative procedures as they relate to the receipt of state aid and the expenditure of relief association funds.⁴ **The scope of the Department’s audit does not include the issuance of an opinion on the accuracy of these amounts.**

Expenditures:

Benefit Services:

Insurance premiums	<u>\$ 5,196</u>
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Fire Services:

Equipment purchased	\$ 1,953
Equipment maintenance	7,370
Training expenses	<u>1,005</u>
Total Fire Services	<u>\$ 10,328</u>

Administrative Services:

Bond premiums	\$ 720
Other administrative expenses*	<u>12,250</u>
Total Administrative Services	<u>\$ 12,970</u>

Other Expenditures:

Erroneous transfer	\$ 82
Unauthorized expenditure	<u>84</u>
Total Other Expenditures	<u>\$ 166</u>

Total Expenditures	<u><u>\$ 28,660</u></u>
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*The other administrative expenses represent rental fees paid during the audit period. Refer to the audit finding contained in this report for additional information.

⁴ Accuracy was evaluated for a selection of transactions based on dollar amount, category, and/or random selection.

BACKGROUND – (Continued)

The volunteer firefighters' relief association and the affiliated fire service organization are separate, legal entities. The relief association is affiliated with the following fire service organization:

Jonathan R. Davis Volunteer Fire Company

JONATHAN R. DAVIS VOLUNTEER FIREMEN'S RELIEF ASSOCIATION
STATUS OF PRIOR FINDINGS

COMPLIANCE WITH PRIOR AUDIT FINDINGS AND RECOMMENDATIONS

The relief association has complied with the prior audit findings and recommendations, as follows:

- Erroneous Transfer Of Funds

By discontinuing the transfer of funds to the fire company's general fund.

- Inadequate Documentation To Verify The Proceeds From The Sale Of A Rescue Vehicle

By providing documentation verifying the proceeds from the sale.

JONATHAN R. DAVIS VOLUNTEER FIREMEN'S RELIEF ASSOCIATION
FINDING AND RECOMMENDATION

Finding – Excessive Rental Fees Paid For Rental Space

Condition: During the current audit period, the relief association was party to a rental agreement with a non-affiliated fire company. The total amount paid to the non-affiliated fire company in rental fees for use of the fire company owned building was \$12,250. Along with paying for the storage of relief owned equipment, the relief association also pays for the storage of equipment owned by the affiliated fire company. The two items are a Pierce Pumper/Tanker and a Chevy Brush Truck. Relief association officials did not provide information regarding the square footage of rental space for storage items at the time of our audit.

The terms of the rental agreement for the use of the building requires 12 monthly payments of \$350 or a lump sum payment of \$4,200. The agreement provided to our auditors states the term of the agreement commences on January 1, 2016, and expires December 31, 2016, at a monthly rate of \$300. In addition, it appears that the lease could extend automatically each year, as the lease was still in effect during our audit period covering the period January 1, 2018, to December 31, 2021. Moreover, our auditors also received a letter provided by the landlord to the relief association, which notified the relief association that the rent will increase to \$350 per month starting with rent due October 1, 2017. The correspondence further indicated it is serving to thereby give the relief association a reasonable 30-day notice.

In addition, the contract includes additional provisions such as:

- The current monthly rental as stated above or the then current monthly rental under subsequent renewals will stay in effect for the then current rental term, unless Landlord gives Tenant a thirty day written notice of a change that will take effect regarding the rental amount.
- Notwithstanding the foregoing, for any default which does not involve overdue rent, Landlord shall provide Tenant with written notice outlining the potential default and provide at least 5 business days within which Tenant may cure such default prior to such event constituting an Event of Default.
- Landlord and Tenant both acknowledge that Landlord may amend, modify, delete or add new and additional reasonable rules and regulations for the use and care of the Leased Premises, the buildings of which the Leased Premises are a part and the Common Facilities as defined in this Lease.

Criteria:

Act 91- SECTION 12. SECTION 7416(F) Use of Funds (21) OF TITLE 35

- (21) Payment for facilities for storage of emergency vehicles and equipment, training, and meetings.

JONATHAN R. DAVIS VOLUNTEER FIREMEN’S RELIEF ASSOCIATION
FINDING AND RECOMMENDATION

Finding – (Continued)

Fire Commissioner’s List

Storage of FRA equipment	General	Yes	Rental or purchase of storage space should be reasonable and necessary under the circumstances.
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Although the VFRA Act includes provisions for the payment of normal and reasonable running expenses as may be appropriate to the business conduct of a relief associations affairs, the amount of rent paid to the non-affiliated fire company during the audit period was 45% of the state aid collected by the relief association during the audit period.

As stipulated in the VFRA Act, the primary purpose of a volunteer firefighters’ relief association is to afford financial protection to volunteer firefighters against the consequences of misfortune suffered resulting from their participation in the fire service. However, the payment of the rent expense appears to be **excessive, unreasonable, and inconsistent** with the intent of the VFRA Act, which was enacted to ensure that funds shall be available for the protection of volunteer firefighters’ and their heirs.

Cause: Relief Association officials stated that the affiliated fire company ran into financial issues and was forced to sell the current building to the non-affiliated company.

Effect: Since the relief association utilized 45% of its audit period income for rental expenses, it is questionable whether the relief association is meeting the intent of the VFRA Act and the needs of the volunteer firefighters. Furthermore, relief association officials were unable to provide the average rent per square foot in their geographic area to compare to the square footage presented by the non-affiliated fire company to substantiate the rental agreement.

Recommendation: The relief association officials should reevaluate the payment of rental fees to the non-affiliated fire company and determine if the amount of rental expense is appropriate, especially in light of the intent of the VFRA Act and the operating needs of the relief association. The relief association should seek a legal review of the terms of the rental agreement to ensure it is valid and better understand its obligations moving forward. If rental fees are continued, the relief association should clearly document the amount of square footage lease rates for comparable storage rental fees being paid within the geographical area and ensure that any future rental fees paid to the non-affiliated fire company are based upon reasonable geographic market values rates and are otherwise authorized by the VFRA. These material terms should be codified in future rental agreements. If the expenditures are not authorized or otherwise properly meeting the purposes of the VFRA Act, the same could be considered an unauthorized expenditure which could lead to a potential withhold of state aid. In addition, the relief association should review and ensure payments for the storage of non-relief association owned equipment are not part of any rental agreement and discontinue any such payments.

JONATHAN R. DAVIS VOLUNTEER FIREMEN'S RELIEF ASSOCIATION
FINDING AND RECOMMENDATION

Finding – (Continued)

Management's Response: Relief association management agreed with the finding as presented at the audit exit conference and indicated they will take action to comply with the recommendation. Subsequent to our audit exit conference and prior to the release of the audit report, relief officials indicated that the relief association and the affiliated fire company are in the process of entering into a formal agreement for which the relief association and fire company will split the rent payment by which each entity will pay 50 percent of the monthly rental charges.

Auditor's Conclusion: Compliance with the audit recommendations will be subject to verification through our next audit.

JONATHAN R. DAVIS VOLUNTEER FIREMEN'S RELIEF ASSOCIATION
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

Jonathan R. Davis Volunteer Firemen's Relief Association Governing Body:

Mr. John Hutchins
President

Ms. Angela Harmon
Secretary

Ms. Cindy Blaine
Treasurer

The following municipalities allocated foreign fire insurance tax monies to this relief association and received a copy of this report:

Ms. J. Carlene Price
Secretary
Lake Township

Ms. Laura Elderkin
Secretary
Lehman Township

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.