

COMPLIANCE AUDIT

Markle Volunteer Fire Department Relief Association

Westmoreland County, Pennsylvania

For the Period

January 1, 2018 to December 31, 2021

July 2022



Commonwealth of Pennsylvania
Department of the Auditor General

Timothy L. DeFoor • Auditor General



**Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov**

**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

Mr. Joe McElhaney, President
Markle Volunteer Fire Department
Relief Association
Westmoreland County

We have conducted a compliance audit of the Markle Volunteer Fire Department Relief Association (relief association) for the period January 1, 2018 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 objective of the audit was 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 objective 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 objective. We believe that our audit provides a reasonable basis for our conclusions.

Based on our audit procedures, we conclude that, because of the significance of the matters described in Finding Nos. 1 and 2 below and discussed later in this report, the relief association did not, in all significant respects, comply 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, collectively as a whole, for the period January 1, 2018 to December 31, 2021. Therefore, the relief association may be subject to the potential withholding of its future state aid distribution, as discussed in the Potential Withhold of State Aid section of this report.

Finding No. 1 – Undocumented Expenditures Due To Potential Misappropriation Of Assets

Finding No. 2 – Failure To Deposit Proceeds From The Sale Of A Jointly Purchased Vehicle

Finding No. 3 – Inadequate And/Or Improper Signatory Authority For The Disbursement Of Funds

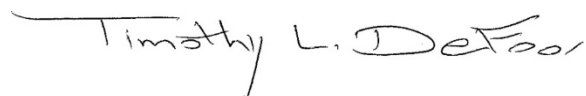
Finding No. 4 – Unauthorized Expenditures

Finding No. 5 – Inadequate Minutes Of Meetings

We are concerned by the number of findings noted and strongly encourage timely implementation of the recommendations noted in this audit report.

The audit report was referred to the Westmoreland County, Pennsylvania District Attorney's Office for their consideration.

The contents of this report were discussed with the management of the relief association and, where appropriate, their responses have 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
June 16, 2022

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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. Association officers are also responsible for maintaining sufficient financial records to support the propriety of all association transactions. Volunteer firefighters' relief association officers are 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.

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)

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

<u>Municipality</u>	<u>County</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Allegheny Township	Westmoreland	\$20,573	\$22,539	\$22,674	\$20,353

Based on the relief association's records, its total cash as of December 31, 2021, was \$40,721, as illustrated below:

Cash	<u><u>\$ 40,721</u></u>
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BACKGROUND – (Continued)

Based on the relief association's records, its total expenditures for the period January 1, 2018 to December 31, 2021 were \$96,814, 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	\$ 25,865
Death benefits	900
Total Benefit Services	<u>\$ 26,765</u>

Fire Services:

Equipment purchased	\$ 44,472
Equipment maintenance	17,741
Training expenses	944
Total Fire Services	<u>\$ 63,157</u>

Administrative Services:

Other administrative expenses	\$ 39
Bond premiums	500
Total Administrative Services	<u>\$ 539</u>

Other Expenditures:

Undocumented expenditures	\$ 4,174
Unauthorized expenditures	679
Miscellaneous*	1,500
Total Other Expenditures	<u>\$ 6,353</u>

Total Expenditures	<u><u>\$ 96,814</u></u>
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*The Miscellaneous expenditure represents a withdrawal of \$1,500 from the relief association's savings account which was then deposited into the relief association's checking account.

⁴ Accuracy was evaluated for all transactions for which relevant documentation was available.

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:

Markle Volunteer Fire Department

MARKLE VOLUNTEER FIRE DEPARTMENT RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Undocumented Expenditures Due To Potential Misappropriation Of Assets

Condition: During the audit period, it appears that the former relief association treasurer withdrew and misappropriated \$4,174 from relief association accounts. Based on documents reviewed by our auditors, the former treasurer wrote 12 relief association checks made payable to himself that were subsequently cashed; however, it appears that the checks were written without proper authorization or knowledge of the relief association membership (Refer to Finding Nos. 3 and 5 of this report for further information).

<u>Date</u>	<u>Check No.</u>	<u>Payee Description</u>	<u>Amount</u>
04/30/2018	1082	Reimbursement postage	\$ 23
08/12/2019	1122	Reimbursement to prior Treasurer	201
09/06/2019	1123	Reimbursement to prior Treasurer	300
10/02/2019	1124	Reimbursement to prior Treasurer	550
10/16/2019	1125	Reimbursement to prior Treasurer	650
11/04/2019	1129	Reimbursement to prior Treasurer	200
12/17/2019	1130	Reimbursement to prior Treasurer	300
01/16/2020	1134	Reimbursement to prior Treasurer	350
12/23/2020	1146	Reimbursement to prior Treasurer	550
12/28/2020	1147	Reimbursement to prior Treasurer	350
01/13/2021	1248	Reimbursement to prior Treasurer	200
09/17/2021	1160	Reimbursement to prior Treasurer	500
Total			<u>\$ 4,174</u>

Criteria: Act 118 at 53 P.S. § 8507(a) states, in part:

The Department of the Auditor General shall have the power, and its duty shall be, to audit the accounts and records of every volunteer firefighters' relief association receiving any 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 amended, as far as be necessary to satisfy the department that the money received was expended or is being expended for no purpose other than that authorized by this act.

MARKLE VOLUNTEER FIRE DEPARTMENT RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

In addition, the relief association's bylaws at Article V, Section 1 states:

Funds of this association shall not be expended for any purpose other than those authorized by the provisions of Act 118 and the association bylaws. All expenditures must be approved by a majority vote at an association meeting and duly recorded in the minutes.

Cause: Relief association officials failed to establish adequate internal control procedures to effectively monitor transactions and ensure the propriety of all expenditures made from relief association funds. These deficiencies are further discussed in detail in Finding No. 3 contained in this report. The relief association was unaware of its ineffective internal control system and, as a consequence, that monetary assets were not adequately protected.

Effect: As a result, relief association funds amounting to \$4,174 were potentially misappropriated, and therefore, they were not available for authorized relief association activities. Furthermore, the relief association's future state aid allocations may be withheld until the finding recommendation is complied with.

Recommendation: We recommend that the relief association seek reimbursement of \$4,174 for the potentially misappropriated assets and that relief association officials establish adequate internal control procedures to prevent any future misuse of funds. For further guidance, please refer to the Auditor General's publication, MANAGEMENT GUIDELINES FOR VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.

Management's Response: Relief association management agreed with the finding as presented at the audit exit conference and subsequent to the audit period, the relief association was reimbursed \$1,050 by the financial institution for the misappropriated assets.

Auditor's Conclusion: Due to the potential withhold of state aid, the relief association's compliance with the finding recommendation will be monitored subsequent to the release of the audit report and through our next audit of the relief association. We reviewed documentation verifying that the partial reimbursement of \$1,050 was received. The remaining balance of \$3,124 must still be reimbursed to the relief association.

MARKLE VOLUNTEER FIRE DEPARTMENT RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Failure To Deposit Proceeds From The Sale Of A Jointly Purchased Vehicle

Condition: In calendar year 2011, the relief association had expended \$30,000 towards the joint purchase of a 2005 Chevrolet vehicle with the affiliated fire company which had a total cost of \$39,534. The relief association entered into an agreement with the affiliated fire company dated August 20, 2011, where the relief association would receive the pro-rata share percentage of 76% if the vehicle was ever sold. In calendar year 2019, the jointly purchased vehicle was sold for \$45,000; however, the relief association did not receive and deposit its proportional ownership interest of the proceeds from the sale of the jointly purchased vehicle. The relief association received and deposited \$27,000 into the relief association account; however, the relief association was due a total of \$34,200 and is therefore still due \$7,200.

Criteria: Section 7418(a) of the VFRA Act 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.

Prudent business practice dictates that the relief association should secure its proportional ownership interest in the jointly purchased vehicle by executing a formal written agreement that enumerates the relief association's proportional share of financing. Such agreement shall specify that the relief association shall receive its prorated share of the proceeds upon sale of the vehicle, in the event the vehicle is ever sold. Once the vehicle is sold, the relief association officials should closely monitor all sales to ensure proceeds are received and timely deposited into a relief association account.

Cause: Relief association officials executed a formal written agreement with the fire company; however, they failed to ensure that the relief association received and deposited its proportional ownership interest due from the proceeds of the sale of a jointly purchased vehicle with the affiliated fire company into a relief association account.

Effect: The failure to receive and deposit the proceeds from the sale of a jointly purchased vehicle with the affiliated fire company places the relief association's ownership interest at greater risk. As a result, the relief association was unable to use the funds for general operating expenses or for investment purposes. Furthermore, the relief association's future state aid allocations may be withheld until they are in full compliance with the finding recommendation.

MARKLE VOLUNTEER FIRE DEPARTMENT RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Recommendation: We recommend that the relief association be reimbursed \$7,200 for its remaining pro-rata share of the proceeds from the sale of the jointly purchased vehicle. We also recommend the relief association officials establish accounting and internal control procedures to ensure that all future proceeds resulting from the sale of a jointly purchased vehicle are timely deposited in a relief association account. For further guidance, please refer to the Auditor General's publication, MANAGEMENT GUIDELINES FOR VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.

Management's Response: Relief association management did not agree with the finding as presented at the audit exit conference and stated that the relief association purchased the vehicle chassis only and the agreement did not clearly state that.

Auditor's Conclusion: The finding remains as stated as the joint purchase agreement stipulates the relief association contributed toward the purchase of the 2005 Chevrolet vehicle and the relief association is due 76% of the proceeds if the vehicle is ever sold. The purchase agreement does not state that the relief association only purchased the vehicle chassis and if this was the intent of the parties, it should have been clearly detailed within the purchase agreement. On the contrary, the plain language of the purchase agreement states that both parties purchased the vehicle in its entirety whose value is to be proportionately divided upon its sale. It is the plain language of the purchase agreement that controls when interpreting contract language, and therefore, both parties purchased the entirety of the vehicle based on the language within the purchase agreement.¹ Furthermore, the title for the vehicle states that it is a "Certificate of Title For a Vehicle" and notes the vehicle identification number, year, and make of the vehicle. Accordingly, the vehicle title itself makes no reference to the vehicle chassis and, therefore, there is no record of the stated implied understanding that ownership in the vehicle by the relief association is limited to the vehicle chassis. Due to the potential withhold of state aid, the relief association's compliance with the finding recommendation will be monitored subsequent to the release of the audit report and through our next audit of the relief association.

¹ See *Willison v. Consolidation Coal Co.*, 536 Pa. 49, 637 A.2d 979, 982 (1994) ("The accepted and plain meaning of the language used, rather than the silent intentions of the contracting parties, determines the construction to be given the agreement.").

MARKLE VOLUNTEER FIRE DEPARTMENT RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Inadequate And/Or Improper Signatory Authority For The Disbursement Of Funds

Condition: During the current audit engagement, we identified 12 checks out of 68 drawn from the relief association's checking account with inadequate or improper signatory authority. Specifically, 1 check out of 68 checks drawn on the relief association's checking account only contained the signature of one officer, even though two signatures are required by the VFRA Act and the relief association bylaws. In addition, we identified 11 checks drawn from the relief association's checking account which contained two signatures; however, the second signature on those 11 checks was identified as possibly forged according to sworn affidavits provided to our auditors. The affidavits were filed by the relief association in coordination with paperwork required by the banking institution from which the potentially fraudulent checks were drawn. Per the paperwork submission/completion requirements of the banking institution, one affidavit was completed for each check considered to be fraudulent. Issuing checks with the signature of only one relief association officer and/or without proper signatory authority negates the relief association's internal control over the disbursement process (Refer to Finding Nos. 1 and 5 of this report for further information).

Criteria: Section 7415(c)(3) of the VFRA Act states, in part:

The bylaws shall require that the signatures of at least two officers, one of whom shall be the disbursing officer, shall be required to bind the association by formal contract or to issue a negotiable instrument.

In addition, the relief association's bylaws at Article VIII, Section 1 states:

The signatures of at least two (2) officers, one of whom shall be the treasurer, shall be required for the issuance of relief association checks, withdrawal from the savings account, redemption of any relief association investment, or any other negotiable instrument issued by the relief association.

Furthermore, prudent business practice dictates that the relief association has sufficient internal control procedures in place to ensure the signatures of at least two relief association officials are included on all negotiable instruments. Adequate internal control procedures require that checks be signed only after the propriety of the expenditure has been determined and the payee, date, and amount to be paid has been confirmed. Additionally, responsible relief association officers should compare this information with supporting documentation, such as invoices, contracts, etc., prior to approving the checks.

MARKLE VOLUNTEER FIRE DEPARTMENT RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Cause: The relief association officials stated that the prior Treasurer was not performing his duties. As noted above, the audit found that the second signature on the checks which contained two signatures appear to have been forged, based on an Affidavit received from the bank. In addition, relief association did not adequately monitor the approval of the expenditures.

Effect: As a result of the relief association officer issuing checks with only one signature and with what appears to be improper signatory authority, assets were placed at greater risk as expenditures were being made without a second relief association officer having the opportunity to verify the propriety of the expenditures. The application of the second signature, after evaluating the propriety of the expenditure, reduces the risk of misappropriation and the risk of errors occurring and going undetected.

Recommendation: We recommend that the relief association officials establish adequate internal control procedures to ensure that the signatures of at least two officers, one of whom shall be the Treasurer, are properly included on all relief association negotiable instruments as defined by the VFRA Act. For further guidance, please refer to the Auditor General's publication, MANAGEMENT GUIDELINES FOR VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.

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.

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

Finding No. 4 – Unauthorized Expenditures

Condition: The relief association expended funds for the following items during the current audit period that are not authorized by the VFRA Act:

<u>Date</u>	<u>Check No.</u>	<u>Description</u>	<u>Amount</u>
02/04/2019	1108	Lighting for a fire company owned ATV	\$ 119
06/30/2020	1141	Pump certification for a fire company truck	560
Total			<u>\$ 679</u>

MARKLE VOLUNTEER FIRE DEPARTMENT RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – (Continued)

Criteria: Section 7416(f) of the VFRA Act states:

The funds of any volunteer firefighters' relief association may be spent:

- (11) To purchase safeguards for preserving life, health and safety of volunteer firefighters to ensure their availability to participate in the volunteer fire service.

Costs associated with the purchase of lighting for a fire company owned ATV and pump certification for a fire company owned pumper truck do not qualify as authorized volunteer firefighters' relief association expenditures; consequently, these disbursements are not authorized under the VFRA Act.

Cause: Relief association officials indicated that they were unaware that the aforementioned expenditures were not authorized by the VFRA Act.

Effect: As a result of these improper expenditures, relief association funds were not available for investment purposes, or to pay for expenditures authorized by the VFRA Act.

Recommendation: We recommend that the relief association be reimbursed \$679 for the unauthorized expenditures and that relief association officials become familiar with Section 7416(f) of the VFRA Act to aid them in determining the propriety of future expenditures. For further guidance, please refer to the Auditor General's publication, MANAGEMENT GUIDELINES FOR VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.

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.

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

Finding No. 5 – Inadequate Minutes Of Meetings

Condition: The relief association failed to maintain detailed minutes of meetings as required by the VFRA Act and the relief association's bylaws. Specifically, the relief association's minutes did not address all financial-related transactions that occurred during the audit period (Refer to Finding No. 1 of this report for further information).

MARKLE VOLUNTEER FIRE DEPARTMENT RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 5 – (Continued)

Criteria: Section 7415(a) of the VFRA Act states, in part, that the relief association:

... must provide for taking and preserving minutes of all meetings and maintenance of such books of account as may be necessary and appropriate to afford a permanent record of its fiscal affairs.

In addition, the relief association's bylaws at Article II, Section 3 states:

Order of business for meetings shall be: 1) Call to order. 2) Roll call of officers and members. 3) Reading of minutes of previous meetings. 4) Treasurers report. 5) Communications. 6) Committee reports. 7) Old business. 8) New business. 9) Approval of expenditures. 10) For the good of the association. 11) Adjournment.

Cause: Relief association officials indicated that they were unaware that maintaining detailed minutes of meetings was required by the VFRA Act and the relief association's bylaws.

Effect: Without detailed minutes of meetings, evidence that relief association business was presented before the membership for approval does not exist. The failure to document all financial related transactions in meeting minutes may also increase the likelihood of fraud occurring. It is particularly concerning that the relief association was not even aware or familiar with its own bylaws, which require the documentation of financial related transaction.

Recommendation: We recommend that the relief association officials maintain detailed minutes of meetings, evidencing the discussion and approval of all financial-related business conducted by the relief association. We also recommend that the relief association become familiar and follow the bylaws of their own relief association. For further guidance, please refer to the Auditor General's publication, MANAGEMENT GUIDELINES FOR VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.

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.

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

MARKLE VOLUNTEER FIRE DEPARTMENT RELIEF ASSOCIATION
POTENTIAL WITHHOLD OF STATE AID

Conditions such as those reported by Finding Nos. 1 and 2 contained in this audit report may lead to a total withholding of state aid in the future unless those findings are corrected. However, such action may not be considered if sufficient documentation is provided within 60 days to verify compliance with this department's recommendations. Such documentation should be submitted by the relief association to: Department of the Auditor General, Bureau of Fire Relief Audits, Room 327 Finance Building, Harrisburg, PA 17120.

MARKLE VOLUNTEER FIRE DEPARTMENT RELIEF ASSOCIATION
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Mr. Charles J. McGarvey, Sr.
State Fire Commissioner

Ms. Nicole W. Zicarelli
Westmoreland County District Attorney

Markle Volunteer Fire Department Relief Association Governing Body:

Mr. Joe McElhaney
President

Ms. Maryanne Griffin
Vice President

Mr. Justin Schneider
Secretary

Mr. Matthew Johnston
Treasurer

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

Mr. Gregory A. Primm
Secretary
Allegheny Township

MARKLE VOLUNTEER FIRE DEPARTMENT RELIEF ASSOCIATION
REPORT DISTRIBUTION LIST

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.