

# COMPLIANCE AUDIT

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## Shades Creek Volunteer Firemen's Relief Association

Luzerne County, Pennsylvania

For the Period

January 1, 2020, to December 31, 2022

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February 2024



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. Jason Kresge, President  
Shades Creek Volunteer Firemen's  
Relief Association  
Luzerne County

We have conducted a compliance audit of the Shades Creek Volunteer Firemen's Relief Association (relief association) for the period January 1, 2020, to December 31, 2022. 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 finding 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 association 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 bank statements that indicated that, as of December 31, 2022, the relief association had a cash balance of \$18,887, we were not able to verify this cash balance.

Based on our audit procedures, we conclude that, for the period January 1, 2020, to December 31, 2022:

- The relief association did not take appropriate corrective action to address the finding contained in our prior audit report, as detailed below, and discussed in the Status of Prior Finding section of this report.
- Because of the significance of the matter described in Finding No. 1 below and discussed later in this report and the effects, if any, of the matter described in the preceding paragraph, 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. Therefore, the relief association may continue to be subject to the potential withholding of its upcoming state aid distribution, as discussed in the Potential Withhold of State Aid section of this report.

Finding No. 1 – Noncompliance With Prior Audit Recommendation – Failure To Secure Ownership Of Rescue Vehicle

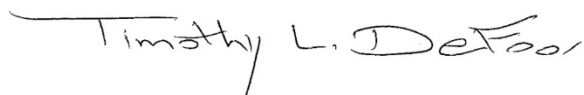
Finding No. 2 – Failure To Monitor Banking Activity

Finding No. 3 – Failure To Maintain Surety (Fidelity) Bond Coverage

Finding No. 4 – Failure To Obtain A Pennsylvania Sales Tax Exemption Number

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

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  
January 16, 2024

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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<sup>1</sup>, and the Volunteer Firefighters' Relief Association Act<sup>2</sup> ("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 Law<sup>3</sup> (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 relief association officers therefore have a responsibility to the public to conduct the relief association's financial affairs in a businesslike manner and to maintain sufficient financial records to support the propriety of all relief association transactions. Volunteer firefighters' relief association officers are also responsible for ensuring that the relief 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.

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

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

<sup>3</sup> 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>2020</u>	<u>2021</u>	<u>2022</u>
Buck Township	Luzerne	*	*	*

\* The 2020, 2021, and 2022 state aid allocations from Buck Township were withheld due to the Order To Show Cause (OTSC) that is currently in place. Once the relief association is in compliance with the finding in this report, the OTSC will be withdrawn, and the state aid allocations will be released.

Based on the relief association’s records, its total cash as of December 31, 2022, was \$18,887, as illustrated below:

Cash	<u>\$ 18,887</u>
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Based on the relief associations records, its total expenditures for the period January 1, 2020, to December 31, 2022, were zero.

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:

Shades Creek Volunteer Fire Company

SHADES CREEK VOLUNTEER FIREMEN'S RELIEF ASSOCIATION  
STATUS OF PRIOR FINDING

NONCOMPLIANCE WITH PRIOR AUDIT FINDING AND RECOMMENDATION

The relief association has not complied with the following prior audit finding. This finding is noted below and discussed in detail in the Finding and Recommendation section of this report:

- Failure To Secure Ownership Of Rescue Vehicle

We are concerned by the relief association's failure to correct this previously reported audit finding. The relief association management should strive to implement the recommendation and corrective action noted in this audit report.

SHADES CREEK VOLUNTEER FIREMEN'S RELIEF ASSOCIATION  
FINDINGS AND RECOMMENDATIONS

**Finding No. 1 – Noncompliance With Prior Audit Recommendation – Failure To Secure Ownership Of Rescue Vehicle**

Condition: On November 20, 2014, the relief association solely purchased a rescue vehicle, in the amount of \$11,000, to carry personnel and safeguard equipment; however, the title to the vehicle was inappropriately issued in the name of the fire company. Also, there was no written agreement with the fire company enumerating the relief association's 100 percent ownership interest in the vehicle.

A similar condition was noted in our prior two audit reports.

Criteria: Prudent business practice dictates that the relief association should maintain sole ownership of all equipment purchased by the relief association. As such, rescue vehicles purchased by the relief association should be titled in the name of the relief association and, if that cannot be done, an agreement should be in place that enumerates the relief association's 100 percent ownership interest in the vehicle as well as stipulating that all sales proceeds shall revert to the relief association in the event the vehicle is ever sold.

Cause: Relief association officials stated they made attempts to obtain the title of the rescue vehicle in the name of the relief association but were unsuccessful.

Effect: As a result of the rescue vehicle being inappropriately titled in the name of the fire company coupled with the lack of a related agreement enumerating the relief association's 100 percent ownership interest in purchased vehicle as well as that all of the proceeds upon the sale of the vehicle shall revert to the relief association, this relief association asset was not properly safeguarded. 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 officials continue to work with the fire company to address the titling of the rescue vehicle. Specifically, the rescue vehicle needs to be titled in the name of the relief association or the relief association officials needs to execute a formal written agreement with the affiliated fire company that enumerates the relief association's 100 percent ownership interest in the purchased vehicle as well as stipulating that all sales proceeds shall revert to the relief association in the event the vehicle is ever sold. If such action is not taken, we recommend that the relief association be reimbursed \$11,000. For further guidance, please refer to the Auditor General's publication, MANAGEMENT GUIDELINES FOR VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.



SHADES CREEK VOLUNTEER FIREMEN'S 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 indicated they will take action to comply with the recommendation.

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.

**Finding No. 2 – Failure To Monitor Banking Activity**

Condition: Relief association officials failed to monitor their banking activity. Specifically, subsequent to the period under review, on March 23, 2023, the checking account was considered dormant and was escheated to the Pennsylvania Department of Treasury. As of the last account statement dated July 31, 2023, the stated value of the checking account amounted to \$18,887 and the reported value by the Pennsylvania Department of Treasury amounted to \$18,887. The relief association was unaware of this condition prior to the conduct of this engagement.

Criteria: The relief association's governing body has ultimate authority and the fiduciary responsibility for the financial management of relief association's funds which includes an obligation to monitor the activity of relief association's monetary assets on a periodic basis which is a prerequisite for sound administration of relief association accounts.

Cause: The relief association did not have any financial transactions during the audit period due to not receiving their state aid, which caused the dormant account status.

Effect: The relief association's failure to adequately monitor banking activity resulted in a potential loss of funds to pay general operating expenses or for other investment purposes and any future interest income.

Recommendation: We recommend the relief association contact the Bureau of Unclaimed Property with the Pennsylvania Department of Treasury to obtain the funds from their dormant checking account. In addition, the management of the relief association should monitor all future monetary assets to ensure they are safeguarded from loss. 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.

SHADES CREEK VOLUNTEER FIREMEN'S RELIEF ASSOCIATION  
FINDINGS AND RECOMMENDATIONS

**Finding No. 3 – 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 the VFRA Act. The relief association's Surety (Fidelity) bond coverage expired on April 22, 2020. As of December 31, 2022, the relief association's cash assets totaled \$18,887.

Criteria: Section 7415(c)(4) of the VFRA Act 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 VFRA Act provision requiring the maintenance of Surety (Fidelity) bond coverage on the relief association's authorized disbursing officer.

Effect: As a result of the authorized disbursing officer of the relief association not being bonded, 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 the VFRA Act. Therefore, the relief association should obtain coverage upon receipt of the escheated 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 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 – Failure To Obtain A Pennsylvania Sales Tax Exemption Number**

Condition: As cited as a verbal observation in prior audits, the relief association failed to obtain a Pennsylvania sales tax exemption number. The relief association is currently using the fire service organization's sales tax exemption number, although the fire service organization and the relief association are separate legal entities.

SHADES CREEK VOLUNTEER FIREMEN'S RELIEF ASSOCIATION  
FINDINGS AND RECOMMENDATIONS

**Finding No. 4 – (Continued)**

Criteria: Section 7415(e) of the VFRA Act states:

A volunteer firefighters' relief association organized or conducted in accordance with the requirements of this section shall be regarded as a charitable corporation for all purposes, including the right to establish exemption from the operation of certain taxes.

Cause: Relief association officials indicated that they were unaware of the necessity to obtain its own sales tax exemption number from the Department of Revenue.

Effect: As a result of the relief association's failure to obtain a sales tax exemption number, the relief association may be required to pay Pennsylvania sales tax on its purchases, which ultimately reduces the funds otherwise available for general operating expenditures or for investment purposes.

Recommendation: We recommend that the relief association officials immediately obtain a state sales tax exemption number from the Department of Revenue and furnish this exemption number to all vendors from whom the relief association makes purchases prior to making any purchases subject to sales tax. 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.

SHADES CREEK VOLUNTEER FIREMEN'S RELIEF ASSOCIATION  
POTENTIAL WITHHOLD OF STATE AID

A condition of a repeat finding such as that reported by Finding No. 1 contained in this audit report may lead to a total withholding of state aid in the future unless that finding is 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 316E Finance Building, Harrisburg, PA 17120.

SHADES CREEK 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

Shades Creek Volunteer Firemen's Relief Association Governing Body:

**Mr. Jason Kresge**  
President

**Mr. Robert Tinner**  
Secretary

**Mr. Francis Litchman**  
Treasurer

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

**Mr. Frank Sipple**  
Secretary  
Buck Township

This report is a matter of public record and is available online at [www.PaAuditor.gov](http://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](mailto:news@PaAuditor.gov).