



**WILKES-BARRE TOWNSHIP VOLUNTEER FIREMEN'S  
RELIEF ASSOCIATION**

**LUZERNE COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2007 TO DECEMBER 31, 2012**

**JULY 2013**

**COMMONWEALTH OF PENNSYLVANIA**

**EUGENE A. DEPASQUALE - AUDITOR GENERAL**

**DEPARTMENT OF THE AUDITOR GENERAL**





Commonwealth of Pennsylvania  
Department of the Auditor General  
Harrisburg, PA 17120-0018  
Facebook: Pennsylvania Auditor General  
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**EUGENE A. DePASQUALE**  
**AUDITOR GENERAL**

Ms. Renee Faust, Municipal Secretary  
WILKES-BARRE TOWNSHIP

Ms. Lisa Brogan, Trooper  
PENNSYLVANIA STATE POLICE

Mr. Michael Melnick, Assistant District Attorney  
LUZERNE COUNTY

RE: WILKES-BARRE TOWNSHIP VOLUNTEER FIREFIGHTERS'  
RELIEF ASSOCIATION, LUZERNE COUNTY

We attempted to conduct 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, 2007 to December 31, 2012.

We attempted to conduct this compliance audit in accordance with *Government Auditing Standards* applicable to performance audits, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our audit results and conclusions based on our audit objectives. We believe that such evidence, when obtained, provides a reasonable basis for our audit results and conclusions based on our audit objectives.

The objectives of the audit were to be:

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

Our audit was to be 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. In conducting our audit, we were to obtain an understanding of the volunteer firefighters' relief association's internal controls as they relate to the association's compliance with those requirements and that we considered to be significant within the context of the audit objectives, and assess whether those significant controls were properly designed and implemented. Our audit procedures were to also include tests of documentary evidence supporting the Wilkes-Barre Township Volunteer Firefighters' Relief Association's recorded financial transactions, tests of the physical existence of inventories, interviews of selected officials and direct confirmation of the Wilkes-Barre Township Volunteer Firefighters' Relief Association's cash, investments, and certain other assets and liabilities as of December 31, 2012, with the custodians of the funds, debtors, creditors, and financial institutions to the extent necessary to satisfy the audit objectives. Additionally, we were to perform procedures to provide a reasonable assurance of detecting instances of violations of legal and regulatory requirements or violations of provisions of contracts that are significant within the context of the audit objectives.

We were able to determine, as detailed in the Background section of this report, that for the 2007 through 2009 calendar years, the Wilkes-Barre Township Volunteer Firefighters' Relief Association received and deposited state aid distribution checks, totaling \$101,043, into a relief association checking account and that for the 2010 through 2012 calendar years, the Wilkes-Barre Township Volunteer Firefighters' Relief Association did not receive state aid. As reported in our prior audit report, as of December 31, 2006, the relief association had a cash balance of \$216. In addition, we were able to determine that the relief association expenditures, during the years 2007, 2008, and 2009 totaled \$100,872. Finally, we were able to reconcile to the relief association's December 31, 2009 cash balance of \$387, as detailed in the Cash Balance Reconciliation section of this report.

However, because we were unable to locate any officers charged with governance (Management) of the relief association, as detailed in the Background section of this report, we were unable to perform our compliance audit mandated by Act 118. 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 the verbal cite issued during the conduct of our prior audit, as noted in the Status of Prior Findings section of this report, and whether expenditures totaling \$100,872 made during 2007, 2008, and 2009 were approved by the relief association membership or made in compliance with Act 118. 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.

Furthermore, we were precluded from obtaining an understanding of the Wilkes-Barre Township Volunteer Firefighters' Relief Association's internal controls as they relate to applicable state laws, contracts, bylaws and administrative procedures and assessing whether those significant controls were properly designed and implemented to assess fraud risk. We were also precluded from performing procedures that would have provided reasonable assurance of detecting instances of violations of legal and regulatory requirements or violations of provisions of contracts significant within the context of the audit objectives. We found no evidence that the Wilkes-Barre Township Volunteer Firefighters' Relief Association was officially closed out and we were precluded from determining whether relief association owned equipment previously purchased was still on hand or if the equipment was transferred to another relief association. **As a result, our department will continue to withhold state aid from Wilkes-Barre Township so that future state aid cannot be allocated to the Wilkes-Barre Township Volunteer Firefighter's Relief Association. We recommend that the Luzerne County District Attorney investigate to determine whether the signatures on the loan agreement and the checks drawn on the relief association's account, were forged, and whether the lease financing agreement constituted a valid contract, as detailed in the Background and Status of Prior Findings sections of this report.**

The contents of this report were not discussed with the management of the Wilkes-Barre Township Volunteer Firefighters' Relief Association, since we were unable to identify the officials charged with governance of the relief association. However, copies of this report will be mailed to Wilkes-Barre Township, the municipality that provided state aid to the relief association in 2007 through 2009, the State Police detective involved in the investigation of the affiliated fire department, and the Luzerne County District Attorney's Office.

June 5, 2013



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 Firemen's Relief Association, herein referred to as 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)

The Wilkes-Barre Township Volunteer Firefighters' Relief Association was allocated state aid from the following municipality:

| <u>Municipality</u>   | <u>County</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> | <u>Total</u> | <u>2011-2012</u> |
|-----------------------|---------------|-------------|-------------|-------------|--------------|------------------|
| Wilkes-Barre Township | Luzerne       | \$26,598    | \$37,644*   | \$36,801*   | \$101,043    | **               |

\* In August 2008, the relief association's 2008 annual state aid allocation was withheld from Wilkes-Barre Township because of the relief association's failure to comply with the findings and recommendations contained in our prior audit report for the period January 1, 2004 to December 31, 2006. On October 28, 2008, the relief association presented our department with documentation indicating that the relief association had complied with the findings and recommendations contained in our January 1, 2004 to December 31, 2006 audit report; therefore, the 2008 state aid allocation was released to Wilkes-Barre Township for distribution to the relief association. The relief association timely received its 2009 state aid allocation from Wilkes-Barre Township.

\*\*When our department attempted to conduct our audit in late 2009 for the period January 1, 2007 to December 31, 2008, as a result of limited cooperation from relief association officials in response to requests for supporting documentation, we were unable to complete the audit engagement. We returned in 2010 and expanded our audit scope years to include the 2009 calendar year. Again, we were unable to complete the audit engagement due to a lack of cooperation from identified relief association officials. As a result, in August 2010, the 2010 annual state aid allocation was withheld from Wilkes-Barre Township. Furthermore, due to the relief association's continuous failure to cooperate with our department by providing requested documentation, the 2011 and 2012 state aid allocations were also withheld from Wilkes-Barre Township.

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

The Wilkes-Barre Township Fire Department

In our attempt to conduct this audit, we met with an individual, who at various times during the audit, represented himself as the relief association president, the relief association vice president, the relief association secretary, and the relief association treasurer. We were not able to determine whether this individual was actually an elected officer of the relief association, however, he does serve as the Fire Chief of the affiliated fire department. We attempted on multiple occasions to obtain names of, or a listing of, relief association officers, but to no avail. In 2008, this individual provided a loan agreement, requiring the affiliated fire department to repay the relief association \$55,121 in order to comply with the two findings issued in our prior audit report and a verbal cite issued during the conduct of our prior audit, as detailed in the Status of Prior Findings section of this report. The loan agreement was signed by this individual

### BACKGROUND (Continued)

and contained three other signatures that appear to be forged. The affiliated fire department was scheduled to begin making loan payments in October 2008. This individual also provided a \$244,000 lease financing agreement, executed in May 2008, for the relief association to purchase a pumper tanker. The lease financing agreement only contained the signature of this individual. According to the financial institution that financed the pumper tanker, the relief association made one payment of \$33,105 in September 2009, and the vehicle was repossessed for nonpayment. Given that we were unable to determine whether this individual was actually an elected officer of the relief association, we question the validity of the lease financing agreement.

We identified expenditures totaling \$100,872, as noted in the Cash Balance Reconciliation section of this report, consisting of nine checks totaling \$100,768 and \$104 in debits for bank charges. One of the nine checks, written for \$1,000, only contained this individual's signature. The remaining eight checks contained two signatures, and for each check, one of the signatures appears to be that of this individual. It also appears that the second signature on each check may have been forged. We were not able to determine whether the signatures on any of the checks were signatures of actual relief association officers.

We also met with and obtained information regarding the individual representing himself as a relief association officer from Pennsylvania State Police (State Police) Detective, Lisa Brogan. Detective Brogan was able to determine that this individual was not an authorized signer on the relief association's account. The State Police began investigating this individual in 2008 for alleged theft of the affiliated fire department's funds. Auditors from our department testified at this individual's preliminary hearing in 2012. The individual was charged with theft by unlawful taking, receiving stolen property, and access device fraud in Luzerne County court. Due to contempt charges, as of the date of this report the trial is on hold.



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

The following findings were included in our prior audit report covering the years 2004 to 2006:

- Undocumented Loans – The relief association wrote three checks totaling \$17,000 to the affiliated fire department. When we questioned the relief officials, we were informed that these checks were for loans to the affiliated fire department, made without written loan agreements.
- Erroneous Withdrawal of Funds – The bank erroneously withdrew \$1,633 from the relief association's account, rather than the affiliated fire department's bank account, to make a payment on an outstanding loan of the affiliated fire department.

In addition, we issued a verbal cite to the relief association to ensure it complies with the terms of the loan agreement for a 2003 loan made to the affiliated fire department. The outstanding principal balance owed to the relief association on this loan was \$21,200 as of December 31, 2006.

The undocumented loans totaling \$17,000, the erroneous withdrawal of \$1,633, and the 2003 loan principal balance totaling \$21,200 resulted in a grand total of \$39,833 owed to the relief association from the affiliated fire department. As detailed in the Background section (page 2) of this report, during the current audit period, we were presented with a \$55,121 loan agreement between the relief association and the affiliated fire department to satisfy this amount. Because we were unable to locate any officers charged with governance of the relief association, we were precluded from determining how the \$39,833 total owed to the relief association reconciled to the \$55,121 loan agreement. We will be requesting that the Luzerne County District Attorney investigate whether the signatures on the \$55,121 loan agreement were forged, as detailed in the Letter signed by the Auditor General contained in this report.

WILKES-BARRE TOWNSHIP VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION  
CASH BALANCE RECONCILIATION  
FROM DECEMBER 31, 2006 TO DECEMBER 31, 2009

|                                    |                                  |
|------------------------------------|----------------------------------|
| December 31, 2006 Cash Balance     | \$ 216                           |
| 2007 State Aid Deposited in 2007   | 26,598                           |
| 2008 State Aid Deposited in 2008   | 37,644                           |
| 2009 State Aid Deposited in 2009   | <u>36,801</u>                    |
| <br>Total Receipts                 | <br>\$ 101,259                   |
| <br>Total Identified Expenditures  | <br><u><u>\$ (\$100,872)</u></u> |
| <br>December 31, 2009 Cash Balance | <br><u><u>\$ 387</u></u>         |

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

This report was initially distributed to the following:

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania

Pennsylvania State Police  
Attention: Ms. Lisa Brogan  
Troop P - Wyoming  
475 Wyoming Avenue  
Wyoming, Pennsylvania 18644

Mr. Michael Melnick, Assistant District Attorney  
Luzerne County  
200 N River St  
Wilkes-Barre, PA 18711

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

Ms. Renee Faust, Secretary  
Wilkes-Barre Township

This report is a matter of public record and is available online at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us). Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: [news@auditorgen.state.pa.us](mailto:news@auditorgen.state.pa.us).