



THE RELIEF ASSOCIATION OF WINDBER FIRE COMPANY NO. 1, INC.

SOMERSET COUNTY

COMPLIANCE AUDIT REPORT

FOR THE PERIOD

JANUARY 1, 2007 TO DECEMBER 31, 2009



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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 Relief Association of Windber Fire Company No. 1, Inc., herein referred to as Windber 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 Windber Volunteer Firefighters' Relief Association was allocated state aid from the following municipalities:

| <u>Municipality</u> | <u>County</u> | <u>2007</u> | <u>2008</u> | <u>2009</u> |
|---------------------|---------------|-------------|-------------|-------------|
| Ogle Township | Somerset | \$ 3,721 | \$ 3,814 | \$ 3,448 |
| Paint Township | Somerset | \$ 8,345 * | \$ 8,551 * | \$ 7,368 |
| Windber Borough | Somerset | \$21,590 | \$22,119 | \$19,751 |

*The relief association deposited the 2008 and 2009 state aid received from Paint Township into the Windber Volunteer Fire Company's checking account. Refer to Finding No. 1 in the Findings and Recommendations section of this report for details regarding this noncompliance issue.

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

Windber Fire Company No. 1, Inc.

Mr. Craig Cicon, President
WINDBER VOLUNTEER FIREFIGHTERS'
RELIEF ASSOCIATION
Somerset County

We have conducted a compliance audit of the Windber 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, 2009.

We conducted 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 the evidence obtained provides a reasonable basis for our audit results and conclusions based on our audit objectives.

The objectives of the audit were:

1. To determine if the volunteer firefighters' relief association took appropriate corrective action to address the finding 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 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 Windber 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 obtained 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 assessed whether those significant controls were properly designed and implemented. Our audit procedures also included tests of documentary evidence supporting the Windber Volunteer Firefighters' Relief Association's recorded financial transactions, tests of the physical existence of inventories, interviews of selected officials and direct confirmation of the Windber Volunteer Firefighters' Relief Association's cash, investments, and certain other assets and liabilities as of December 31, 2009, with the custodians of the funds, debtors, creditors, and financial institutions to the extent necessary to satisfy the audit objectives. Additionally, we performed 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.

The results of our audit for the period January 1, 2007 to December 31, 2009, found the Windber Volunteer Firefighters' Relief Association took appropriate corrective action to address the finding contained in our prior audit report but did not, in all significant respects, receive and expend state aid and accumulated relief funds in compliance with applicable state laws, contracts, bylaws and administrative procedures, as noted in the findings listed below and discussed later in this report. The results of our tests also indicated the Windber Volunteer Firefighters' Relief Association expended funds as presented in the Accompanying Expenditure Information and, as of December 31, 2009, had a cash balance of \$1,570 and no investments.

Finding No. 1 – Alleged Misappropriation of Relief Association Funds

Finding No. 2 – Unauthorized Expenditures

Finding No. 3 – Undocumented Expenditures

Finding No. 4 – Duplicate Payment

Finding No. 5 – Inadequate Minutes of Meetings

The contents of this report were discussed with the management of the Windber Volunteer Firefighters' Relief Association and, where appropriate, their responses have been included in the report.

January 14, 2011

JACK WAGNER
Auditor General

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
STATUS OF PRIOR FINDING

COMPLIANCE WITH PRIOR AUDIT FINDING AND RECOMMENDATION

The Windber Volunteer Firefighters' Relief Association has complied with the following prior audit finding and recommendation:

- Failure to Comply With Terms of Loan Agreement

By liquidating the loan.

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Alleged Misappropriation of Relief Association Funds

Condition: During the audit period, the former fire company and relief association controller allegedly misappropriated a total of \$35,219 of relief association funds. The individual in question perpetrated the alleged thefts by depositing 2008 and 2009 state aid checks from Paint Township, intended for the relief association, directly into the fire company's bank account and by making unauthorized transfers of funds from the relief association's account to the fire company's account. It appears that when the funds were in the fire company's account, the individual either stole the funds or used the funds to cover and conceal previous thefts from the fire company. The information below details the improper state aid deposits and the unauthorized transfers:

State Aid Allocation Checks Improperly Deposited into Fire Company Account

| <u>Allocation Year</u> | <u>Municipality</u> | <u>Municipality Check Date</u> | <u>Allocation Amount</u> |
|----------------------------|---------------------|------------------------------------|------------------------------|
| 2008 | Paint Township | 10/23/08 | \$ 8,551 |
| 2009 | Paint Township | 10/16/09 | <u>7,368</u> |
| Total State Aid | | | <u>\$15,919</u> |

Unauthorized Transfers from Relief Association Account to Fire Company Account

| <u>Relief Association Check Number</u> | <u>Check Date</u> | <u>Payee</u> | <u>Check Amount</u> |
|--|-----------------------|----------------------------|-------------------------|
| 1307 | 12/05/08 | Windber Fire Company No. 1 | \$10,000 |
| 1311 | 12/23/08 | Windber Fire Company No. 1 | 4,400 |
| 1313 | 01/09/09 | Windber Fire Company No. 1 | 3,000 |
| 1335 | 06/26/09 | Windber Fire Company No. 1 | <u>1,900</u> |
| Total Transfers | | | <u>\$19,300</u> |

According to the last two relief association treasurers, the individual in question maintained control over the relief association's funds by virtue of his position as fire company and relief association controller. He was able to maintain control because he received the mail, made deposits, had the ability to transfer money between accounts (including the relief association account), authorized check signatory for the relief association, kept the checkbook and accounting system under his control, maintained invoices and bank statements, informed the relief association's treasurer when an invoice needed to be paid, and instructed the relief association's treasurer to presign blank checks.

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

The issues discovered in this finding will be referred to the District Attorney of Somerset County for consideration in the pending criminal prosecution of this individual, as he has already been charged with 852 counts of theft, totaling in excess of \$285,000, of Windber Fire Company No. 1, Inc. funds.

Criteria: 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), [FN1] 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.

In addition, Section 706 (b)(2) of the Act of December 18, 1984, (P.L. 1005, No. 205) states that the foreign fire insurance tax allocation is distributed to the municipal treasurer, who is required to forward this state aid to the volunteer firefighters' relief association treasurer within 60 days of receipt. Pursuant to this provision of Act 205, relief association officials should monitor the distribution of state aid allocations to ensure they timely receive their respective checks.

Cause: Relief association officials failed to establish adequate internal control procedures to safeguard its assets. The relief association was unaware of its ineffective internal controls.

Effect: The failure to establish adequate internal controls increased the likelihood for misappropriation of assets; and therefore, relief association funds were not available for authorized purposes.

Recommendation: We recommend the relief association officials adopt internal control procedures, such as appropriate segregation of duties and signing of checks only after appropriate review by those relief association officials with signatory authority, to prevent the misappropriation of funds from occurring again in the future. We also recommend the relief association officials determine the appropriate course of action and take the necessary steps to obtain restitution for the improper state aid deposits and unauthorized transfer of funds, totaling \$35,219. For further guidance, please refer to the Auditor General's publication, MANAGEMENT GUIDELINES FOR VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATIONS.

WINDBER 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 indicated they will take action to comply with the recommendation.

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Unauthorized Expenditures

Condition: The relief association expended funds for the following items that are not authorized by Act 118:

| <u>Date</u> | <u>Check No.</u> | <u>Description</u> | <u>Amount</u> |
|-------------|------------------|--|-----------------|
| 12/19/07 | 1280 | Workman's Compensation Insurance for ambulance personnel | \$ 151 |
| 01/16/09 | 1314 | Workman's Compensation Insurance for ambulance personnel | 2,152 |
| 10/28/09 | 1344 | Dress uniforms | <u>333</u> |
| Total | | | <u>\$ 2,636</u> |

Criteria: Act 118 at 35 Pa.C.S. § 7416(f)(2 and 11) states:

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

- (2) To purchase contracts of insurance which, at a minimum, shall afford financial assistance to active members of the fire service represented by the association against losses due to injury suffered in the fire service and may also provide, in the order named: (i) for payments to the surviving spouse or other dependents of a member in the event of member's death; (ii) for protection of active firefighters against disease; (iii) for replacement or purchase of prosthetic devices such as visual aids, hearing aids, dentures, braces, crutches and the like, where those devices have been lost or damaged while the owner was engaged in the fire service or where the need for those devices arose because of functional impairment attributable to participation in the fire service; (iv) for repair or replacement, if necessary, of articles of clothing or pocket pagers damaged or lost in the course of participation in the fire service; and (v) for disability incurred after service for a minimum of 20 years as a volunteer firefighter.

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

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Because the Department of the Auditor General is legislatively prohibited from giving pre-audit advice, an interagency agreement with the Department of Community and Economic Development (DCED) has been established whereby the DCED provides interpretation of Act 118. Workman's Compensation for ambulance personnel and dress uniforms has been deemed by DCED to not qualify as authorized expenditures. Consequently, these disbursements for workman's compensation for ambulance personnel and dress uniforms are not authorized under Act 118.

Cause: Relief association officials were unaware that the expenditures for workman's compensation for ambulance personnel and dress uniforms were not authorized by Act 118.

Effect: As a result of these improper expenditures, relief association funds were not available for investment purposes, or to pay for expenditures authorized by Act 118.

Recommendation: We recommend the relief association be reimbursed \$2,636 for the unauthorized expenditures and that relief association officials become familiar with the requirements of Act 118 at 35 Pa.C.S. § 7416(f) 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.

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Undocumented Expenditures

Condition: The relief association was unable to provide adequate supporting documentation for the following expenditures:

| <u>Date</u> | <u>Check No.</u> | <u>Description</u> | <u>Amount</u> |
|-------------|------------------|--------------------------------------|-----------------|
| 03/08/07 | 1256 | Cambria County Firemen's Association | \$ 340 |
| 04/03/07 | 1260 | Cambria County Firemen's Association | 40 |
| 02/13/08 | 1281 | East Taylor Fire Department | 140 |
| 02/21/08 | 1284 | Cambria County Firemen's Association | 320 |
| 03/19/08 | 1288 | Charles Beckley – member | 100 |
| 04/02/08 | 1290 | FWF Insurance | 318 |
| 02/16/09 | 1344 | Napa Auto Parts | 36 |
| Total | | | <u>\$ 1,294</u> |

Criteria: 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), [FN1] 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 and detailed minutes of meetings, this department is unable to determine if the relief association funds were expended for purposes authorized by Act 118. Furthermore, good business practices dictate that supporting documentation be maintained to verify the propriety of all financial transactions.

Cause: Relief association officials failed to establish adequate internal control procedures to ensure supporting documentation is maintained for all expenditures.

Effect: Lack of supporting documentation, such as invoices and detailed minutes of meetings, made it impossible to determine if the expenditures were made in accordance with Act 118 at 35 Pa.C.S. § 7416(f). In addition, the failure to maintain adequate supporting documentation for relief association expenditures can lead to an increased risk of errors occurring and funds being misappropriated.

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – (Continued)

Recommendation: We recommend the relief association provide this department with adequate supporting documentation, such as invoices, to determine the validity of the expenditures or that the relief association be reimbursed \$1,294 for the undocumented expenditures. We also recommend that the relief association officials maintain adequate supporting documentation for all 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.

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – Duplicate Payment

Condition: On November 19, 2008, the relief association expended \$3,734 for auto liability insurance. On January 16, 2009, the relief association erroneously made a duplicate payment for the same auto liability insurance. As such, the second payment is considered an unauthorized disbursement because no goods or services were received for the payment.

Criteria: Adequate accounting and internal control procedures should be implemented to prevent duplicate payment of invoices.

Cause: The volunteer firefighters' relief association failed to establish internal control procedures which would require that all invoices or other billing documents be canceled or otherwise effectively marked to prevent duplicate payments.

Effect: As a result of this erroneous payment, the relief association was unable to use these funds for other general operating expenses or for investment purposes.

Recommendation: We recommend the relief association be reimbursed \$3,734 for the erroneous duplicate payment. The relief association should consider contacting the vendor to recover the duplicate payment. In addition, the relief association should establish accounting and internal control procedures to monitor future relief association 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.

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
FINDINGS AND RECOMMENDATIONS

Finding No. 5 – Inadequate Minutes of Meetings

Condition: The relief association failed to maintain detailed minutes of meetings, as required by Act 118. Specifically, the relief association's minutes did not address all of the financial-related transactions that occurred during the audit period.

Criteria: Act 118 at 35 Pa.C.S. § 7415(a) states, in part, that the relief association:

. . . must provide for the taking and preserving of 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.

Cause: Relief association officials were unaware that maintaining detailed minutes of meetings was required by Act 118.

Effect: Without detailed minutes of meetings, evidence that relief association business was presented before the membership for approval does not exist.

Recommendation: We recommend the relief association maintain detailed minutes of meetings, evidencing the discussion and approval of all financial-related business conducted by the 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.

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
POTENTIAL WITHHOLD OF STATE AID

Conditions such as those reported in Finding Nos. 1, 2, 3, and 4 may lead to a total withholding of state aid in the future unless those findings are corrected. However, such action will not be considered if sufficient documentation is provided immediately to verify compliance with this department's recommendations. Such documentation should be submitted by the volunteer firefighters' relief association to: Department of the Auditor General, Bureau of Firefighters' Relief Association Audits, Room 316-D Finance Building, Harrisburg, PA 17120.

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
 ACCOMPANYING EXPENDITURE INFORMATION
 FOR THE PERIOD JANUARY 1, 2007 TO DECEMBER 31, 2009

Act 118 at 35 Pa.C.S. § 7412 states: a volunteer firefighters' relief association is an organization formed primarily for the purpose of affording financial protection to volunteer firefighters against the consequences of misfortune suffered as a result of their participation in the fire service. The organization may contain within its membership the members of one or more fire companies and may serve secondary purposes, as set forth in this subchapter, but only if adequate provisions have been first made to serve the primary purpose.

Act 118 at 35 Pa.C.S. § 7416 authorizes the investment of relief association funds and outlines the types of benefits and services that can be provided with volunteer firefighters' relief association funds.

Furthermore, all expenditures must be properly authorized as prescribed in the volunteer firefighters' relief association bylaws and approved at an association meeting.

USES OF FUNDS:

| | |
|---------------------------------------|------------------|
| Benefit Services: | |
| Insurance premiums | \$ 53,479 |
| Death benefits | 1,500 |
| Tokens of sympathy and goodwill | 1,314 |
| Total Benefit Services | <u>\$ 56,293</u> |
| | |
| Fire Services: | |
| Equipment purchased | \$ 16,037 |
| Equipment maintenance | 17,280 |
| Training expenses | 3,950 |
| Total Fire Services | <u>\$ 37,267</u> |
| | |
| Administrative Services: | |
| Miscellaneous administrative expenses | \$ 188 |
| Total Administrative Services | <u>\$ 188</u> |
| | |
| Other Expenditures: | |
| Principal payments on lease-financing | \$ 7,600 |
| Interest payments on lease-financing | 1,029 |
| Unauthorized transfers | 19,300 |
| Undocumented expenditures | 1,294 |
| Total Other Expenditures | <u>\$ 29,223</u> |

WINDBER VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania

Windber Volunteer Firefighters' Relief Association Governing Body:

Mr. Craig Cicon, President

Mr. Vincent Maxwell, Sr., Vice President

Ms. Deanna Koss, Secretary

Ms. Stephanie Negrey, Treasurer

Reports were also distributed to each municipality, which allocated foreign fire insurance tax monies to this relief association.

Ms. Susan O'Roark, Secretary
Ogle Township

Mr. Andrew Tvardzik, Secretary
Paint Township

Mr. Frederico Oliveros, Secretary
Windber Borough

This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at www.auditorgen.state.pa.us.