



**NEW WILMINGTON FIREMEN'S ASSOCIATION**

**HEREIN REFERRED TO AS:**

**NEW WILMINGTON VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION**

**LAWRENCE COUNTY**

**COMPLIANCE AUDIT REPORT**

**FOR THE PERIOD**

**JANUARY 1, 2006 TO DECEMBER 31, 2008**



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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, Act of June 11, 1968, (P.L. 149, No. 84), as amended, 53 P.S. § 8501 et seq. (commonly referred to as Act 84), 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 New Wilmington 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 84 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 84 authorizes specific types of expenditures and prescribes appropriate volunteer firefighters' relief association investment options. Within the parameters established by Act 84, 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 New Wilmington Volunteer Firefighters' Relief Association was allocated state aid from the following municipalities:

<u>Municipality</u>	<u>County</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
New Wilmington Borough	Lawrence	\$12,690	\$12,606	\$12,890
Wilmington Township	Lawrence	\$ 8,970	\$ 8,906	\$ 9,144
East Lackawannock Township	Mercer	\$ 5,647	\$ 5,500	\$ 5,619
Lackawannock Township	Mercer	\$ 4,642	\$ 4,656	\$ 4,791
Wilmington Township	Mercer	\$ 7,490	\$ 7,598	\$ 7,742

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

New Wilmington Volunteer Fire Company

Ms. Debbie Wagner, President  
NEW WILMINGTON VOLUNTEER FIREFIGHTERS'  
RELIEF ASSOCIATION  
Lawrence County

We have conducted a compliance audit of the New Wilmington 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, Act of June 11, 1968, (P.L. 149, No. 84), as amended, 53 P.S. § 8501 et seq. (commonly referred to as Act 84), for the period January 1, 2006 to December 31, 2008.

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 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 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 New Wilmington Volunteer Firefighters' Relief Association's administration of state aid and accumulated 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 New Wilmington Volunteer Firefighters' Relief Association's recorded financial transactions, tests of the physical existence of inventories, interviews of selected officials and direct confirmation of the New Wilmington Volunteer Firefighters' Relief Association's cash, investments, and certain other assets and liabilities as of December 31, 2008, 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, 2006 to December 31, 2008, found, in all significant respects, the New Wilmington Volunteer Firefighters' Relief Association received and expended funds in compliance with applicable state laws, contracts, bylaws and administrative procedures, except as noted in the following findings discussed later in this report. The results of our tests indicated the New Wilmington Volunteer Firefighters' Relief Association expended funds as presented in the accompanying information and as of December 31, 2008, had a cash balance of \$64,690 and an investment balance with a fair value of \$234,690.

Finding No. 1 – Noncompliance With Prior Audit Recommendation –  
Inadequate Relief Association Bylaws

Finding No. 2 – Untimely Deposit of State Aid

We also noted another matter that has been included in the following observation discussed later in this report.

Observation – Diversification of Investments

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

April 7, 2009

JACK WAGNER  
Auditor General



NEW WILMINGTON VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION  
STATUS OF PRIOR FINDINGS

COMPLIANCE WITH PRIOR AUDIT FINDINGS AND RECOMMENDATIONS

The New Wilmington Volunteer Firefighters' Relief Association has complied with the following prior audit findings and recommendations:

- Failure to Obtain a Federal Tax Identification Number

By obtaining a federal tax identification number and furnishing it to the financial institution in which the relief association maintains funds.

- Failure to Obtain a Pennsylvania Sales Tax Exemption Number

By obtaining a state sales tax exemption number and furnishing this number to all vendors from which the relief association purchases equipment.

The New Wilmington Volunteer Firefighters' Relief Association has partially complied with the following prior audit recommendation:

- Failure to Deposit State Aid

By locating and depositing the \$200 state aid allocation it received from Volant Borough for 2005. However, the relief association did not timely receive and deposit all state aid received during the current audit period. This issue is further discussed in Finding No. 2 of this report.

NONCOMPLIANCE WITH PRIOR AUDIT FINDING AND RECOMMENDATION

The New Wilmington Volunteer Firefighters' Relief Association has not complied with a prior audit finding. This issue is further discussed in the following finding noted in the Findings and Recommendations section of this report:

- Noncompliance With Prior Audit Recommendation –  
Inadequate Relief Association Bylaws

We are concerned with the volunteer firefighters' relief association's failure to correct a previously reported audit finding. The association management should strive to implement the recommendations and corrective actions noted in this audit report.

NEW WILMINGTON VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION  
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Noncompliance With Prior Audit Recommendation –  
Inadequate Relief Association Constitution and Bylaws

Condition: As cited in the prior two audit reports, the description of the relief association's organizational structure, as described in the relief association's existing constitution and bylaws, does not clearly distinguish the relief association as an entity separate and distinct from the affiliated fire company. Since the prior audit, the affiliated fire company did amend its bylaws; however, the bylaws that were presented at the time of the audit still do not stand alone as the relief association's bylaws. The bylaws presented at the time of the audit were again those of the affiliated fire company but do include specific sections and references to the volunteer firefighters' relief association. The New Wilmington Volunteer Firefighters' Relief Association bylaws still do not contain all of the provisions required by Act 84 at 53 P.S. § 8505(c). Specifically, the bylaws do not address:

- The voting rights of the various classes of members.
- The procedures to be followed in calling meetings, special meetings, and the quorum requirements.
- The procedures to be followed in nominating officers, trustees, directors, and members of the executive committee, as applicable.
- The procedures for the approval and payment of expenditures and for the investment of funds and the sale of investments.

Criteria: Act 84 at 53 P.S. § 8505(c) states, in part, that the relief association's bylaws shall include the following provisions:

- Specify the voting rights of different classes of members, if any.
- The requirements and the procedures to be followed in calling meetings, special meetings, and the quorum requirements.
- State the procedure to be followed in nominating and in electing officers, trustees, directors, and members of the executive committee, as applicable.
- The procedures for the approval and payment of expenditures and for the investment of funds and the sale of investments.

Furthermore, prudent business practice dictates that the bylaws of an organization should stand on its own.

Cause: While notified of these deficiencies in the prior two audit reports, the relief association did not establish bylaws to meet the bylaw provisions required by Act 84.

NEW WILMINGTON VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION  
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – (Continued)

Effect: Commingling the relief association's and its affiliated fire company's operating procedures within the same bylaws causes confusion and does not present the organizations as separate legal entities, independent of one another. As a result of the bylaws being commingled and the mandatory provisions not being included in the bylaws, the relief association may have conducted its affairs without proper authorization. In addition, the inadequate bylaws increases the likelihood that relief association assets are not adequately protected and could become commingled with those of the affiliated fire company.

Recommendation: We again recommend that relief association officials review and update the constitution and bylaws governing their organization so that the bylaws meet the requirements set forth in Act 84 to properly authorize the operating procedures of the relief association and clearly separate and distinguish the operations of the relief association from the fire company. 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.

NEW WILMINGTON VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION  
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Untimely Deposit of State Aid

Condition: The volunteer firefighters' relief association did not deposit the 2006 state aid allocation it received from East Lackawannock Township, in the amount of \$5,647, until March 16, 2007.

Criteria: The foreign fire insurance tax allocation was distributed to the municipal treasurer, who forwarded this state aid to the volunteer firefighters' relief association within 60 days of receipt, as required by Section 706 (b)(2) of the Act of December 18, 1984, (P.L. 1005, No. 205). Upon receipt of the state aid allocation, the relief association should ensure the funds are deposited in a timely manner.

Cause: The relief association failed to establish internal control procedures that require all income received be recorded and deposited in a timely manner. The relief association did not receive and deposit the original state aid check issued by the municipality. According to the relief association officials, the original state aid check issued by East Lackawannock Township intended for the relief association was lost. A replacement check was later issued by the municipality on January 9, 2007, but was erroneously deposited into a fire company account. However, the affiliated fire company reimbursed the relief association on March 16, 2007.

Effect: As a result of the untimely deposit, funds were not available to pay general operating expenses or for investment purposes. In addition, an untimely deposit of receipts can lead to a greater risk that funds could be lost or misappropriated.

Recommendation: We recommend the relief association officials adopt internal control procedures to ensure the timely deposit of all income received. 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.

## NEW WILMINGTON VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION OBSERVATION

### Observation – Diversification of Investments

Within the parameters established by the Volunteer Firefighters' Relief Association Act<sup>1</sup>, it is the responsibility of the volunteer firefighters' relief association to invest its funds in a proper and prudent manner.

As these investments typically provide an income stream to the relief association for annual operations, it is generally sensible not to invest all VFRA money in one asset or asset class that places the principal at risk. In fact, state law requires VFRA's to "reasonably diversify investments, unless the [VFRA] reasonably determines that it is in the interest of the beneficiaries not to diversify..."<sup>2</sup>.

By diversifying investments, the VFRA can help preserve capital, increase liquidity and decrease volatility. Diversification means spreading one's money among different investments; asset allocation diversifies total investments among different investment classes, such as stocks, bonds, government securities, and cash equivalents.

As of December 31, 2008, the VFRA had \$133,412 (fair value) or 45% of the VFRA's cash and investments in mutual funds.

The VFRA management should periodically review its specific cash needs and investment goals and ensure that its investments are allocated and diversified to prudently meet those needs and goals.

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<sup>1</sup> 53 P.S. § 8506(c)(1997). This provision incorporates the "prudent investor rule" of the Probate, Estates, and Fiduciaries Code, 20 Pa. C.S.A. §7201 et seq.

<sup>2</sup> 20 Pa. C.S.A. § 7204(a) (Supp. 2005).

NEW WILMINGTON VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION  
 ACCOMPANYING EXPENDITURE INFORMATION  
 FOR THE PERIOD JANUARY 1, 2006 TO DECEMBER 31, 2008

Act 84 at 53 P.S. § 8502(1) states, in part, that:

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. Such an association may also serve other purposes, . . . provided only that adequate provisions be first made to serve its primary purpose. . . .

Act 84 at 53 P.S. § 8506, 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. 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	\$ 54,330
Total Benefit Services	\$ 54,330
Fire Services:	
Equipment purchased	\$ 298,452
Total Fire Services	\$ 298,452
Administrative Services:	
Miscellaneous administrative expenses	\$ 51
Total Administrative Services	\$ 51

NEW WILMINGTON VOLUNTEER FIREFIGHTERS' RELIEF ASSOCIATION  
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Edward G. Rendell  
Governor  
Commonwealth of Pennsylvania

New Wilmington Volunteer Firefighters' Relief Association Governing Body:

Ms. Debbie Wagner, President	Mr. Gary Wagner, Director
Mr. James Cameron, Vice President	Mr. Todd Wilson, Director
Mr. Melvin Hanna, Secretary	Mr. Richard Wilson, Director
Mr. Jeffrey Byler, Treasurer	Mr. Jeffrey Jones, Director
	Mr. Peter Grittie, Director

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

Ms. Sharonn Edmiston, Secretary New Wilmington Borough	Ms. Susan Wimer, Secretary Wilmington Township
Ms. Linda Hittie, Secretary East Lackawannock Township	Ms. Jody Scopack, Secretary Lackawannock Township
Ms. Wendy Campbell, Secretary Wilmington Township	

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](http://www.auditorgen.state.pa.us).