

COMPLIANCE AUDIT

North Hempfield Volunteer Firefighters
Relief Association, Inc., Hempfield
Township, Westmoreland County
Pennsylvania
For the Period
January 1, 2020, to December 31, 2023

September 2024



Commonwealth of Pennsylvania
Department of the Auditor General
Timothy L. DeFoor • Auditor General



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**TIMOTHY L. DEFOOR
AUDITOR GENERAL**

Mr. Jay Wilkinson, President
North Hempfield Volunteer Firefighters
Relief Association, Inc., Hempfield Township,
Westmoreland County

We have conducted a compliance audit of the North Hempfield Volunteer Firefighters Relief Association, Inc., Hempfield Township, Westmoreland County (relief association) for the period January 1, 2020, to December 31, 2023. 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 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 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 matter described in Finding No. 1 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, 2020, to December 31, 2023. 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 – Inappropriate Ownership Of Resue Vehicle

Finding No. 2 – Inadequate Relief Association Bylaws

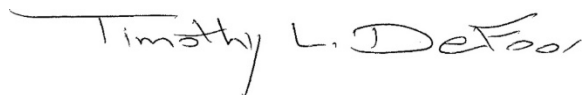
Finding No. 3 – Insufficient Surety (Fidelity) Bond Coverage

Finding No. 4 – Failure To Obtain A Federal Tax Identification Number

Finding No. 5 – 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
August 15, 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 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 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.

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>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>
Hempfield Township**	Westmoreland	\$20,740	\$40,289*	\$266,140	\$265,055

*On October 18, 2021, the relief association deposited the 2021 state aid allocation of \$20,145 from Hempfield Township into a relief association account. On February 10, 2023, Hempfield Township allocated an additional \$20,144 of 2021 state aid funds to the relief association. Upon receipt of the second state aid allocation, the relief association deposited the funds into a relief association account on February 13, 2023.

** As of August 20, 2022, a Resolution was adopted to change the name of the relief association to Hempfield Fire Department Relief Association. Municipalities have sole discretion to distribute their annual allocation of state aid received to any relief association providing fire service to the municipality. Due to the change, Hempfield Township allocated all 2022 and 2023 state aid to the relief association.

Based on the relief association’s records, its total cash as of December 31, 2023, was \$655,852, as illustrated below:

Cash	<u>\$ 655,852</u>
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BACKGROUND – (Continued)

Based on the relief association’s records, its total expenditures for the period January 1, 2020, to December 31, 2023, were \$67,240, 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	\$ 4,402
Death benefits	<u>1,000</u>
Total Benefit Services	<u>\$ 5,402</u>
Fire Services:	
Equipment purchased	<u>\$ 60,538</u>
Administrative Services:	
Bond premiums	<u>\$ 1,300</u>
Total Expenditures	<u><u>\$ 67,240</u></u>

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:

Hempfield Fire Department

⁴ Accuracy was evaluated for a selection of transactions based on dollar amount, category, and/or random selection.

NORTH HEMPFIELD VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION, INC.,
HEMPFIELD TOWNSHIP, WESTMORELAND COUNTY
FINDINGS AND RECOMMENDATIONS

Finding No. 1 – Inappropriate Ownership Of Rescue Vehicle

Condition: On May 1, 2018, the relief association purchased a 2012 Ford Utility Truck, in the amount of \$27,500, to carry personnel and safeguard equipment; however, the title to the vehicle was not transferred from the previous name of North Hempfield Volunteer Firefighters Relief Association to the relief association's new official name which is the Hempfield Fire Department Relief Association.

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 are to be titled in the name of the relief association.

Cause: The relief association officials did not provide a reason why this occurred.

Effect: As a result of the rescue vehicle being inappropriately titled in the previous name of 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 rescue vehicle be titled in the new official name of the relief association. If such action is not taken, we recommend that the relief association be reimbursed \$27,500. 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: 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.

NORTH HEMPFIELD VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION, INC.,
HEMPFIELD TOWNSHIP, WESTMORELAND COUNTY
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – Inadequate Relief Association Bylaws

Condition: The existing bylaws of the relief association do not clearly address all the provisions required by Section 7415(c) of the VFRA Act and/or considered to be beneficial to the operation of the relief association. Specifically, the bylaws address pension related items which are not authorized or permitted within the VFRA Act.

The relief association's bylaws at Article II, Section 3 states:

The Association is a governmental entity that receives and manages public money to provide retirement and ancillary benefits for individuals providing the governmental services of firefighting and emergency first response, and for their beneficiaries.

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

The Association is a defined contribution Relief Association subject to Act 118 of 2010. All benefits provided by this Association derive from and are governed by Federal and State laws and these bylaws.

Furthermore, the relief association's bylaws at Article IV, Section 1 states, in part:

Class I: All individuals acting as Township Supervisors and Township Staff appointed by the Township Board of Supervisors shall be members of in Class I. (Paragraph 2)

If the Township has approved the employment of the Fire Department of Volunteer firefighters to perform fire prevention duties and to supervised [*sic*] fire prevention duties, the personnel serving in fire prevention positions are eligible for membership in the Association and qualify for service pensions and other benefit coverage of the Association on the same basis as members who perform fire suppression duties. (Paragraph 5)

If the Township has approved the employment of the Fire Department of volunteer emergency medical personnel, individuals who solely perform or supervise volunteer emergency medical duties are eligible for membership in the Association and qualify for service pensions and other benefit coverage of the Association on the same basis as members who perform fire suppression duties. (Paragraph 6)

NORTH HEMPFIELD VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION, INC.,
HEMPFIELD TOWNSHIP, WESTMORELAND COUNTY
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

The relief association's bylaws at Article V, Section 1 states, in part:

The Powers of the Board of Trustees. The Board of Trustees (Trustees) is the governing board and has exclusive control of the Investment of the Association's plan assets in conformance with Federal and State law Including, but not limited to, Pennsylvania statues and these bylaws. The members of the Board will act as Trustees, with a fiduciary obligation to the active, deferred, and retired members of the Association, who are its beneficiaries; the taxpayers of the municipality, who help to finance the plan; and the Commonwealth of Pennsylvania, which established the plan.

The Trustees will invest and reinvest the Association's plan assets, determine benefits, determine eligibility for membership or benefits, determine the amount or duration of benefits, determine the funding requirements or amounts of contributions, oversee the expenditure of plan assets, and select financial institutions and investment products.

In addition, the relief association's bylaws at Article V, Section 8 states, in part:

The Secretary will keep individual files and a roll of membership, with the date joining, resignation, discharge, retirement, dues, and service pensions and ancillary benefits paid.

Furthermore, the relief association's bylaws at Article V, Section 9 states, in part:

The Treasurer will keep separate and distinct accounts of the Special Fund and the General Fund, if applicable, and will prepare and present to the Board a full and detailed statement of the assets and liabilities of each fund separately, prior to the annual meeting of the Association, and upon request of the Trustees.

The relief association's bylaws at Article VI, Section 10 states, in part:

Voting at Trustees Meetings. The Trustees has a responsibility to vote on the investment and reinvestment of Association assets, the determination of benefits, the determination of eligibility for membership or benefits, the determination of the amount or duration of benefits, the determination of funding requirements or the amounts of contributions, the maintenance of membership and financial records, the expenditure of Association assets, the selection of financial institutions and investment products, and on any other matter related to the business or affairs of the Association.

NORTH HEMPFIELD VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION, INC.,
HEMPFIELD TOWNSHIP, WESTMORELAND COUNTY
FINDINGS AND RECOMMENDATIONS

Finding No. 2 – (Continued)

Criteria: Section 7415(c) of the VFRA Act states that the relief association’s bylaws shall:

- (1) Specify the requirements for securing membership, voting rights of different classes of members, if there be different classes, and conditions under which membership may be terminated.
- (8) Specify notice required with respect to proposed bylaw amendments, including the time, place and date when the proposed amendments shall be considered.
- (9) Be faithfully preserved, along with amendments thereto and the effective date of the amendments, in permanent form.
- (10) Contain such other provisions as may, to the membership, seem appropriate or necessary to the orderly conduct of affairs of the association.

Furthermore, the relief association bylaws should authorize and clearly specify the criteria to be met before receiving death or relief benefits and the amount of any benefit payments. In addition, the bylaws should address the authorization of compensation to relief association officers.

Cause: Relief association officials indicated that they were unaware of the mandatory bylaw provisions established by the VFRA Act.

Effect: As a result of the mandatory provisions not being included in the bylaws, the relief association may have conducted its affairs without proper authorization.

Recommendation: We recommend that the relief association officials review and update the bylaws governing their organization so that the bylaws meet the requirements set forth in the VFRA Act and properly authorize the operating procedures of the relief association. In addition, the relief association should remove any and all language referring to pensions. 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.

NORTH HEMPFIELD VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION, INC.,
HEMPFIELD TOWNSHIP, WESTMORELAND COUNTY
FINDINGS AND RECOMMENDATIONS

Finding No. 3 – Insufficient Surety (Fidelity) Bond Coverage

Condition: The relief association did not maintain a Surety (Fidelity) bond in a sufficient amount to cover the relief association’s authorized disbursing officer. The relief association’s Surety (Fidelity) bond coverage amount was \$500,000; however, as of December 31, 2023, the relief association’s cash assets totaled \$655,852.

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 failed to monitor the relief association’s cash balance to ensure that the Surety (Fidelity) bond coverage on the relief association’s authorized disbursing officer was in compliance with the VFRA Act provisions and did not provide a reason why this occurred.

Effect: As a result of the authorized disbursing officer of the relief association being insufficiently bonded, the relief association’s cash assets were not adequately safeguarded.

Recommendation: We recommend that the relief association officials ensure that its Surety (Fidelity) bond sufficiently covers the relief association’s authorized disbursing officer, as required by the VFRA Act. This requirement may be accomplished by increasing the Surety (Fidelity) bond coverage on the relief association’s authorized disbursing officer to an amount greater than the expected maximum balance of the relief association’s cash assets, or by decreasing the relief association’s cash assets to an amount anticipated to remain below the policy coverage amount. In addition, relief association officials should monitor the relief association’s cash balance to ensure that unexpected events affecting the relief association’s current funds do not again result in insufficient Surety (Fidelity) bond coverage on the relief association’s authorized disbursing officer. 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.

NORTH HEMPFIELD VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION, INC.,
HEMPFIELD TOWNSHIP, WESTMORELAND COUNTY
FINDINGS AND RECOMMENDATIONS

Finding No. 4 – Failure To Obtain A Federal Tax Identification Number

Condition: The relief association failed to comply with the Tax Equity and Fiscal Responsibility Act by not obtaining a federal tax identification number. The relief association is inappropriately using the fire service organization’s federal tax identification number, although the fire service organization and the relief association are separate legal entities.

Criteria: All businesses, both profit and nonprofit, are required to obtain a federal tax identification number and provide this number to any financial institution where funds are earning interest. If their tax identification number is not provided, the financial institution is required to withhold 31 percent of interest earned and transmit these funds to the Internal Revenue Service, representing federal income taxes.

Cause: Relief association officials indicated that they were unaware of the necessity to obtain its own federal tax identification number.

Effect: Failure to comply with the Tax Equity and Fiscal Responsibility Act could cause the relief association to be penalized by the Internal Revenue Service, resulting in the loss of funds otherwise available for general operating expenditures or for investment purposes.

Recommendation: We recommend that the relief association officials immediately apply for its own federal tax identification number through the Internal Revenue Service and furnish this number to its financial institutions. Relief association officials should also consider applying to the Internal Revenue Service for tax exempt status as a nonprofit corporation under Internal Revenue Code 501(c). 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.

NORTH HEMPFIELD VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION, INC.,
HEMPFIELD TOWNSHIP, WESTMORELAND COUNTY
FINDINGS AND RECOMMENDATIONS

Finding No. 5 – Failure To Obtain A Pennsylvania Sales Tax Exemption Number

Condition: 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.

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 continued 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 purchases equipment. 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.

NORTH HEMPFIELD VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION, INC.,
HEMPFIELD TOWNSHIP, WESTMORELAND COUNTY
POTENTIAL WITHHOLD OF STATE AID

A condition 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.

NORTH HEMPFIELD VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION, INC.,
HEMPFIELD TOWNSHIP, WESTMORELAND COUNTY
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Joshua D. Shapiro
Governor
Commonwealth of Pennsylvania

North Hempfield Volunteer Firefighters Relief Association, Inc., Hempfield Township,
Westmoreland County Governing Body:

Mr. Jay Wilkinson
President

Mr. Sean Hearn
Vice President

Mr. Aaron Siko
Secretary

Mr. Jay Anderson
Treasurer

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

Mr. Aaron Siko
Secretary
Hempfield Township

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.