



Agreed-Upon Procedures Report
Dive Team Investigatory Accounting Services and Analysis

Period Covering September 1, 2021 - August 31, 2024

(With Independent Accountants' Report Thereon)

SHELBY COUNTY DIVE TEAM

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Independent Accountants' Agreed-Upon Procedures Report

To the Board of Trustees
Shelby County, Illinois:

We have performed the procedures enumerated below related to the Shelby County Dive Team located in Shelby County, Illinois (County) during the period September 1, 2021 to August 31, 2024. As of July 2023, Shelby County became responsible for operations and compliance with policies and procedures for the Shelby County Dive Team (Dive Team). The Dive Team operation is part of the County's Emergency Management Agency. The Dive Team is comprised of personnel who are trained in underwater search, rescue and recovery.

The County's management has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose to assist users in determining whether the County maintained compliance with the County's policies and procedures regarding operations and accounting. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures are appropriate for their purposes.

The procedures and the associated findings are as follows:

Benford Brown and Associates, LLC requested financial documents from Shelby County regarding the Shelby County Dive Team. BB&A conducted interviews of key personnel, reviewed board agendas, reviewed board meeting minutes, reviewed payroll registers, reviewed financial statements and reviewed county appropriations ordinances.

We were engaged by the County Board of Shelby County to perform this agreed-upon procedures engagement. We conducted our engagement in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA). We were not engaged to and did not conduct an examination or review engagement, the objective of which would be the expression of an opinion or conclusion, respectively, on compliance with the specified requirements. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the County and to meet our other ethical responsibilities, in accordance with relevant ethical requirements related to our agreed-upon procedures engagement.

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Benford Brown & Associates, LLC

Chicago, IL

September 22, 2024

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SHELBY COUNTY DIVE TEAM

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Background

The Shelby County Dive Team is located in Shelby County, Illinois. The Shelby County Dive Team operations are a part of operations of Shelby County.

The current members of the Shelby County Dive Team are

Michelle Campbell
Joren Davis
Sean Dial
Scott Enkoff
Kenneth Farley
Nicholas Quick
Sandy J. Macari
Craig Martin
Austin Pritchard

The Dive Team is comprised of personnel who are trained in underwater search, rescue and recovery. The Dive Team has been operating since 1997 and has never filed Articles of Incorporation in the State of Illinois, nor has the Dive Team filed for tax-exempt status under Internal Revenue Code 501(c)(3) status with the Internal Revenue Service. In July 2023, the Shelby County board voted to assume the operations of the Dive Team. Benford Brown and Associates obtained and reviewed court documents filed in a federal court case in 2011. Those documents contain a corporate disclosure in which the Shelby County Dive Rescue Team indicated they are not a publicly held corporation or entity. Benford Brown and Associates, LLC also reviewed a document titled “Summons in a Civil Matter” regarding the 2011 federal court case. The plaintiff on the document is listed as Shelby County Dive Resue Team, a division of Shelby County, Illinois. In July 2023, the Shelby County board voted to assume the operations of the Dive Team.

The County is responsible for the maintenance of the budget and payroll and human resources, as well as detection and prevention of fraud, misappropriations, and other irregularities. As stated in its policies and procedures, the County has the primary responsibility for the investigation of all suspected fraudulent acts. The County may utilize whatever internal and/or external resources it considers necessary in conducting an investigation. If an investigation substantiates that fraudulent activities have occurred, the County will issue reports to appropriate designated personnel. Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as well as final dispositions of the case. The current administration seeks to review financial activity to ensure compliance with policies, procedures, board approval and tax laws.

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County President Orman and the County Board contracted Benford Brown & Associates, LLC (BB&A) with the task of reviewing the Dive Team activity. For purposes of this engagement, BB&A assessed the accounting policies and procedures as it relates to the Dive Team financial transactions.

Objectives and Scope

The objective of the agreed-upon procedures was to review accounting policies, procedures and Dive Team transactions for the time period of September 1, 2021 to August 31, 2024 for completeness, accuracy, and proper approval and to determine whether the County's internal control procedures over the Dive Team's operations were effective in preventing fraud, waste and abuse.

Benford Brown & Associates, LLC's (BB&A) professional services were conducted in accordance with *Statement on Standards for Attestation Services No. 19* (SSAE No. 19) issued by the American Institute of Certified Public Accountants (AICPA). BB&A was engaged to review accounting policies, procedures and Dive Team transactions for the time period of September 1, 2021 through August 31, 2024. Our services were focused on the following objectives:

- Determine whether or not Dive Team transactions was being properly and accurately recorded in its accounting records.
- Determine whether or not Dive Team transactions were budgeted and approved by the County Board
- Determine whether tax documents were filed with the appropriate agencies.
- Evaluate current internal controls and provide recommendations for improvement.

Procedures

BB&A conducted fraud inquiries to address incentive/pressures present within the organization that may lead to fraud, opportunities for persons within the organization to commit fraud, and attitudes/rationalizations of personnel within the organization that may lead to fraud. For the purposes of this engagement, BB&A conducted the following procedures:

Inquiries – BB&A conducted inquiries of key personnel to gain an understanding of the organization, the financial procedures, control environment, and practices as it relates Dive Team activities during the period of September 1, 2021 to August 31, 2024. Inquiries were also used to obtain information about and to understand the reasoning for the agreed-upon procedures. We reviewed the accounting records, accounting policies, appropriation ordinances, board meeting minutes and tax documents.

Result – The agreed upon procedures identified the following:

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- **Inadequate Oversight:** There is routine overspend of donations, budgeted, or earned funds by the Shelby County Dive Team.
 - **Poor Documentation:** Financial records are incomplete, with no bank statements detailing individual transactions.
 - **Unreconciled Revenue:** Revenue generated from County equipment usage is not reconciled, and there are instances of personal use of County equipment.
 - **Incomplete Donation Records:** Documentation of donations is incomplete.
 - **Lack of Documentation of Jobs/Rescues:** No documentation exists showing actual “jobs/rescues” that would generate income or justify the usage of County equipment.
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Details regarding budget and financial statements findings

BB&A reviewed the 2018 Dive Donation Fund Report. BB&A requested documentation for all donations and earnings reported in the 2018 Dive Donation Fund Report.

- BB&A reviewed the 2018 Dive Donation Fund Report noting that \$15,000 was budgeted for the fiscal year ended August 31, 2018. Total revenue for the year was \$3,132.94 per the 2018 Dive Donation Fund Report. BB&A received documentation for \$3,131.22 in donations and \$1.72 in earnings. Expenditures for the year totaled \$5,333.08. BB&A determined that Dive Team expenses were \$2,200.14 more than the documented revenue received for the fiscal year ended August 31, 2018.

BB&A reviewed the 2019 Dive Donation Fund Report. BB&A requested documentation for all donations and earnings reported in the 2019 Dive Donation Fund Report.

- BB&A reviewed the 2019 Dive Donation Fund Report noting that \$7,000 was budgeted for the fiscal year ended August 31, 2019. Total revenue for the year was \$32,494 per the 2019 Dive Donation Fund Report. BB&A received documentation for \$29,394 in donations and \$3,100 in earnings. Expenditures for the year totaled \$39,631.03. BB&A determined that Dive Team expenses were \$7,137.03 more than the documented revenue received for the fiscal year ended August 31, 2019.

BB&A reviewed the 2020 Dive Donation Fund Report. BB&A requested documentation for all donations and earnings reported in the 2020 Dive Donation Fund Report.

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- BB&A reviewed the 2020 Dive Donation Fund Report noting that \$19,000 was budgeted for the fiscal year ended August 31, 2020. Total revenue for the year was \$6,540 per the 2020 Dive Donation Fund Report. BB&A received documentation for \$5,490 in donations and \$1,050 in earnings. Expenditures for the year totaled \$27,907.91. BB&A determined that Dive Team expenses were \$21,367.91 more than the documented revenue received for the fiscal year ended August 31, 2020.

BB&A reviewed the 2021 Dive Donation Fund Report. BB&A requested documentation for all donations and earnings reported in the 2021 Dive Donation Fund Report.

- BB&A reviewed the 2021 Dive Donation Fund Report noting that \$19,000 was budgeted for the fiscal year ended August 31, 2020. Total revenue for the year was \$6,540 per the 2020 Dive Donation Fund Report. BB&A received no documentation for donations or earnings. Expenditures for the year totaled \$17,052.53. BB&A determined that Dive Team expenses were \$17,052.53 more than the documented revenue received for the fiscal year ended August 31, 2021.

BB&A reviewed the 2022 Dive Donation Fund Report. BB&A requested documentation for all donations and earnings reported in the 2022 Dive Donation Fund Report.

- BB&A reviewed the 2022 Dive Donation Fund Report noting that \$15,000 was budgeted for the fiscal year ended August 31, 2020. Total revenue for the year was \$229.34 per the 2022 Dive Donation Fund Report. BB&A received documentation for \$229.34 in donations. Expenditures for the year totaled \$15,234.75. BB&A determined that Dive Team expenses were \$15,005.41 more than the documented revenue received for the fiscal year ended August 31, 2022.

BB&A reviewed the 2023 Dive Donation Fund Report. BB&A requested documentation for all donations and earnings reported in the 2023 Dive Donation Fund Report.

- BB&A reviewed the 2023 Dive Donation Fund Report noting that \$15,000 was budgeted for the fiscal year ended August 31, 2023. Total revenue for the year was \$25.85 per the 2023 Dive Donation Fund Report. BB&A received documentation for \$25.85 in earning. Expenditures for the year totaled \$2,722.36. BB&A determined that Dive Team expenses were \$2,696.51 more than the documented revenue received for the fiscal year ended August 31, 2023.

BB&A reviewed the 2024 Dive Donation Fund Report. BB&A requested documentation for all donations and earnings reported in the 2024 Dive Donation Fund Report.

- BB&A received no documentation for donations or earnings.

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Inquiries – BB&A conducted inquiries of key personnel to gain an understanding of the organization, the financial procedures, control environment, and practices as it relates Dive Team activities during the period of September 1, 2021 to August 31, 2024. Inquiries were also used to obtain information about and to understand the reasoning for the agreed-upon procedures. We reviewed the receipts for purchases for the Dive Team.

Result – The agreed upon procedures identified the following:

- **Failure to Inventory Equipment:** Equipment purchased with County funds has not been put into inventory nor has the inventory been observed and audited.
- **Potential Commingling of Funds:** There is a potential for commingling of personal and County funds, particularly related to the trade-in of a truck for a County truck.
- **Overspending and Credit Management Issues:** Continued allowance for spending, opening lines of credit without oversight, and movement of County funds between institutions without proper control.
- **Excessive Credit Cards:** An excessive number of open and active credit cards, with potential misuse for personal expenses.
- **Cross Utilization of Funds:** The Dive Team is allowed to use fire and rescue funds, with no access to the records from the fire and rescue funds.
- **Inconsistencies:** Multiple issues with reporting, including active 911 subscriptions, discrepancies in training expense documentation, budget amount mismatches, and inconsistencies between reported and actual expenditures.

Details regarding purchases findings

- BB&A noted over 80 assets and items purchased since 2018. A list compiled by BB&A totaling approximately \$110,000 was sent to the County. BB&A requested additional information regarding where the fixed assets are currently located or when the fixed assets were disposed of. BB&A did not receive any additional information for the following listing of assets:

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Inquiries – BB&A conducted inquiries of key personnel to gain an understanding of the organization, the financial procedures, control environment, and practices as it relates Dive Team activities during the period of September 1, 2021 to August 31, 2024. Inquiries were also used to obtain information about and to understand the reasoning for the agreed-upon procedures. BB&A noted that purchases during this period exceeds revenue and donations received by the Dive Team. BB&A inquired about the bank accounts used by the Dive Team, the Dive Team's Federal tax exemption status, and it's registration with the Illinois Charitable Trust Bureau. BB&A was made aware of a report issued by former Shelby County State's Attorney, Robert Hanlon, in May 2024 during the time of our review.

Result – BB&A reviewed bank records provided by Bussey bank. The Tax ID number listed on the bank account for the Shelby County Dive Team was the Tax ID number assigned by the Internal Revenue Service to Shelby County. BB&A reviewed the report from former Shelby County State's Attorney, Robert Hanlon, addressed to former Board Chairman, Robert Orman. BB&A noted the following:

- Former Shelby County State's Attorney Hanlon stated in his report that he recovered \$24,703.94 via a cashier's check made payable to the Shelby County Treasurer.
- Former Shelby County State's Attorney Hanlon stated in his report that the funds were diverted to an incorrect entity but should have been deposited in the Dive Team's account maintained by the Shelby County Treasurer.
- Former Shelby County State's Attorney Hanlon stated in his report that in his investigation, he discovered no fact to suggest to him that any individual obtained personal benefit of the diversion of the funds of the Dive Team to the other entity. Therefore, the individuals responsible for the diversion were not charged criminally. There remains time on the Statute of Limitations should the successor elect to advance a criminal charge.
- Former Shelby County State's Attorney Hanlon noted in his report that Mr. Austin Pritchard's alleged refusal to respond to Freedom of Information Act (FOIA) requests. Attorney Hanlon stated the maximum risk at the time of his report was \$45,000 plus attorney fees. BB&A asked for a list of the current Dive Team members as a part of our agreed upon procedures. BB&A did not receive the requested information and that was one of the primary reasons for the delay in issuance of this report. Our report contains a list of the current Dive Team members that were obtained via a FOIA several years ago. We also received an email dated

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- September 24, 2024 from County board member Tad Mayhall inquiring as to why we needed a current team roster and where it fit into our scope of work.
- Former State's Attorney Hanlon stated in his report that during his term in office, he learned of the existence of a scheme and artifice to avoid the Board of Review. That artifice was facilitated by the intentional falsification of Certificates of Error whereby the Clerks in the Supervisor of Assessments Office either signed Certificates of Error on behalf of members of the Board of Review or the Clerk used pre-signed blank forms circumventing the entire Board of Review process. After Former State's Attorney Hanlon began looking into this practice, he believes the practice ended. He also believes the creation of the false documents was the product of ignorance and not of a criminal intent. Thus, he declined to commence criminal prosecution of the Supervisor of Assessments. Former State's Attorney Hanlon cannot disclose the substance of the Grand Jury Testimony or the Grand Jury's investigation related to this issue.
 - Former State's Attorney Hanlon stated in his report that during his review of property records and applicable taxes and assessments, there are a number of parcels in Shelby County that are significantly under assessed (properties sold for over \$1,000,000 with assessed market values well below sales price). Former State's Attorney Hanlon stated that it is also clear that the Supervisor of Assessments needs education on assessment of riparian rights. Riparian rights are rights of property owners whose property connects to a running body of water. Former State's Attorney Hanlon recommended that the Lithia Springs Marina should have a complete market analysis completed so that a fair share assessment is properly estimated.
 - Former State's Attorney Hanlon stated in his report that it came to his attention that the objection petition filed by Mr. Boehm was highly irregular. Mr. Boehm acknowledged in the hearing on the Objection Petition that he did not have all of the necessary paperwork for his petition. Video footage available to former State's Attorney Hanlon and the court demonstrate that Mr. Boehm entered the building with less than a minute to spare to file his objection and did not possess any papers upon entry. In addition, the Clerk's clock was checked for its relationship to the time on the video. A test of that correlation revealed that there was no significant deviation between clocks and therefore the handwritten time on the petition was erroneous. Former State's Attorney Hanlon declined to charge any person and he informed the Clerk of the need to manage her office without irregularities.

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- Former State's Attorney Hanlon stated in his report to the County Board that issues exist with respect to a unfair labor practice involving the union and it has implication on the County as a whole. The County executed a labor agreement with a defined bargaining unit and that defined bargaining unit encompasses individuals from the Clerk's office and the Supervisor of Assessment office, the Treasurer's office and the Highway Department. The union is in violation of its duties to the whole defined bargaining unit when they negotiated a Memorandum of Understanding (MOU) with the Highway Department only and the Board approved. The other members of the bargaining unit (i.e. Clerk's office, Supervisor of Assessment Office and Treasurer's office) were not included in the MOU. The Highway Department is part of the bargaining unit and labor agreement negotiations have to include all individuals of the defined bargaining unit.
- Former State's Attorney Hanlon stated in his report that each of us enjoys the presumption of innocence. Therefore, it is not necessary for a State's Attorney to declare that an individual is innocent. That said, despite numerous individuals requesting that Former State's Attorney Hanlon charge Mr. Spessard, he declined to prosecute Alan Spessard. Former State's Attorney Hanlon did not wish to delve into the particulars of Mr. Spessard's conduct and declined to charge based on what he believed was within his discretion. However, Former State's Attorney Hanlon stated had he been the State's Attorney at the time of the misconduct alleged and facts reflected in the investigation, he would have charged Mr. Spessard.

Inquiries – BB&A conducted inquiries of key personnel to gain an understanding of the organization, the financial procedures, control environment, and practices as it relates Dive Team activities during the period of September 1, 2021 to August 31, 2024. Inquiries were also used to obtain information about and to understand the reasoning for the agreed-upon procedures. BB&A was made aware of a large sum of cash that was recovered from the Dive Shed just prior to our review. BB&A was informed that all cash received by the Dive Team is to deposited into the Dive Team account with the Treasurer.

Result – BB&A was informed the cash was turned over to the Sheriff in evidence by the Shelby County Sheriff.

Inquiries – BB&A conducted inquiries of key personnel to gain an understanding of the organization, the financial procedures, control environment, and practices as it relates Dive Team activities during the period of September 1, 2021 to August 31, 2024. Inquiries were also used to

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obtain information about and to understand the reasoning for the agreed-upon procedures. BB&A inquired about obtaining information regarding email address shelbydive@shelbycounty-il.com and shelbycountydiveteam@gmail.com.

Result – BB&A was informed that Austin Pritchard has sent emails from the email address shelbydive@shelbycountyil.com however the financial officers for the County and the IT department do not have access to the email. BB&A noted during our review of the purchases that these were the email addresses being utilized for the Amazon purchases. BB&A also noted the financial officers for the County do not have access to the Amazon accounts that are being used for purchases.

Inquiries – BB&A conducted inquiries of key personnel to gain an understanding of the organization, the financial procedures, control environment, and practices as it relates Dive Team activities during the period of September 1, 2021 to August 31, 2024. Inquiries were also used to obtain information about and to understand the reasoning for the agreed-upon procedures. BB&A inquired if the Dive Team or the Dive Team leadership has the authority to sign up for credit on behalf of the County.

Result – BB&A was informed that the Dive Team is not listed on the credit card policy for the County however they do have WEX cards for gas purchases. BB&A reviewed the Credit Card Ordinance approved and adopted on September 14, 2023. The Dive Team commander has given all members accesses to use the cards.

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Recommendations

Based on our review of the County board agendas, board meeting minutes, and financial records we have the following recommendations:

1. Regarding the cash that was found in the Dive Shed and turned over to the County Sheriff, we recommend an investigation is completed regarding this matter. We recommend the State's Attorney file the appropriate action to get an order to tender the funds to the Treasurer.
2. The State of Illinois and Internal Revenue Service has rules regarding how nonprofit organization are required to operate. BB&A did not receive a copy of a Tax ID number issued by the IRS. BB&A was not able to obtain evidence that the Shelby County Dive Team was properly registered with the Illinois Charitable Trust Bureau. BB&A learned that a local Community Foundation possibly used an account at a local State Bank to hold funds on behalf of the Shelby County Dive Team. At least one person associated with the foundation admitted that the possible intent was to conceal government funds when they ran through the funds through the charity at the bank. Bank fraud, money laundering, tax fraud, and tax evasion are serious crimes. It is our understanding the bank cooperated and issued a cashier's check for over \$24,000, BB&A did not receive any bank statements to review to determine the correct amount of donations and revenue for the Shelby County Dive Team for the entire time they have been operating without the appropriate organizational documents. BB&A is recommending that the County Treasurer report this matter as quickly as possible to the Internal Revenue Service, the Federal Bureau of Investigations and the Illinois Charitable Trust Bureau.
3. Regarding the market value matter, we recommend the board follow the advice of Former State's Attorney Hanlon and direct the current State's Attorney to subpoena various records of the property owner that would help in estimating the market value of various properties. Former State's Attorney Hanlon stated the Supervisor of Assessment has not requested that assistance. Former State's Attorney Hanlon stated despite the recent dramatic increase in assessment on Lithia Springs Marina, based on his professional opinion, that the valuation of the riparian rights is grossly insufficient. Former State's Attorney Hanlon stated the riparian rights are enormous and are not reflected in the assessed valuation by any reasonable means and statutory remedies exist for properties that are significantly undervalued.
4. Regarding the County Clerk's office not properly recording the date and time the documents are received, we recommended the County implement a process that the County Clerk utilize an electronic time stamp machine for stamping electoral documents.

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5. The County should approve all vendor contracts and obtain an IRS Form W-9 prior to issuing a payment to a vendor regarding Dive Team operations.
6. The County should review budget-to-actual financial reports to ensure expenditures do not exceed approved budgets regarding Dive Team operations.
7. The County should comply with all federal and state laws and municipal ordinances regarding the Dive Team operations.
8. The County should implement a policy regarding record retention of financial records to ensure compliance with audit guidelines, Freedom of Information Act requests and the Illinois State Archives.
9. The County should implement procedures to reconcile revenue to ensure Dive Team and County equipment usage is properly recorded and reported. This reconciliation process will also help prevent and detect personal use of government assets.
10. The County should implement procedures to ensure the completeness of donation records as required by the Internal Revenue Service.
11. The County should implement a process to inventory all current fixed asset and maintain a list of fixed asset purchases and disposals. This information is required for annual financial audits.
12. The County should implement a process to ensure personal funds and County funds are not commingled when assets are purchased.
13. The County should implement a process to ensure proper oversight of spending and credit applied for on behalf of the Dive Team.
14. The County should review the credit cards issued to Dive Team member to ensure there is not an excess number of open and active cards. The County should also implement procedures to ensure the cards are not being used for personal expenses.
15. The County should ensure the Dive Team is not using funds from other departments without proper approval.
16. The County should implement a policy to ensure the Information Technology department and Financial Officers of the County have access to all accounts that are utilizing County funds to make purchases. This would include Amazon accounts.

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Summary

Results from our application of agreed-upon procedures for September 1, 2021 through August 31, 2024 indicate that the accounting processes for the Shelby County Dive Team are not operating in compliance with the County's policies and procedures. The Dive Team does not appear to have been operating in compliance with Internal Revenue Code Section 501(c)(3) and cannot provide a valid tax identification number issued by the Internal Revenue Service. All entities that operate in Illinois must register with the Illinois Secretary of State. There is no record of the Shelby County Dive Team complying with the state law regarding the Secretary of State. All entities that solicit and accept donations in Illinois are required to register with the Illinois Charitable Trust Bureau. There is no record of compliance with the Illinois Charitable Trust Bureau. The County must ensure controls are implemented to ensure compliance with the County's policies and procedures as well as federal and state laws. The Board members and financial officers are also required to report financial crimes to the appropriate authorities immediately.