



Anahuac EMS Audit

For Years 2014-2015

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CHAMBERS COUNTY AUDITOR

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Nature of Engagement:

The purpose of our engagement was to acquire an understanding of the operations of the Anahuac Emergency Corps and the challenges they face operating as a 501(c)(3) nonprofit organization. Our engagement consisted of analyzing Anahuac Emergency Corps financial documents, Certificate of Formation, By Laws, and meeting minutes for the years 2014 and 2015. The objective of this audit was to determine the compliance with government rules and regulations and accuracy of financial reporting.

Financial Management:

Budget:

The Anahuac Emergency Corps (AEC) currently does not prepare any form of budgets. Budgets should be prepared annually and budgeted by month. Significant amounts such as proceeds from the County, payments to insurance companies, capital expenditure and major repairs should be budgeted in the month expected to occur. Budgets are not only used to control expenses, but also to project cash requirements.

Financial Reporting:

AEC also does not prepare any type of financial statements. The Treasurer's report in the meeting minutes consists only of unreconciled bank balances. The amounts reported as balances per the bank statements are not reconciled bank balances. The amounts reported can be misleading because of checks written and outstanding at bank statement dates. If the bank balances are to be included as part of Treasurer's report, it should be the reconciled balance and the report should include the amount of unpaid bills.

Monthly receipts and disbursement journals should be prepared and compared to the budget. These amounts should include amounts received and disbursed and not what is on the bank statements. These journals should be used in reconciling the bank statements at month end and used by the tax preparer at year end.

Monthly reports should be acquired from the Anahuac Emergency Corps billing company. These reports should include the total amount owed to AEC at the end of the month, amount billed for the month and amounts collected for the month. Any adjustments or amounts deemed uncollected should be documented and presented to the Board of Directors for approval and kept on file with the billing company's reports.



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The AEC is required by the Texas Business Code to prepare an annual financial statement to be kept on file. This has not been done in the past. We realize most boards do not have accountants as board members and that managers or executive directors of volunteer organizations are not hired for their accounting skills. Because of lack of accounting knowledge and board turnover, it is imperative that a professional organization be engaged to assist on a continuing and ongoing basis. They should be familiar with the organization and when possible attend board meetings.

The yearly Tax Return Form 990, which is completed by their tax preparer, does not clearly depict their actual yearly operations putting the organization at risk of losing their exemption. Texas Business Code states in Section 22.352 (a) ***“A corporation shall maintain current and accurate financial records with complete entries as to each financial transaction of the corporation, including income and expenditures, in accordance with generally accepted accounting principles.”*** It goes on to state that in section (b) ***“Based on records maintained under Subsection (a), the board of directors of the corporation shall annually prepare or approve a financial report for the corporation for the preceding year.”*** We compared the 2014 receipts and disbursements of the Anahuac EC to the 2014 Tax Return Form 990 and found large, significant discrepancies.

While reviewing the bank statements and compiling expense breakdowns, it was evident that the department was getting behind on paying their monthly bills. If journals had been in existence at that time, this may have been discovered in a timely manner and prevented bills not being paid on time. It also came to our attention that debit cards were issued. The debit card and online bill pay have replaced the use of checks to pay monthly expenses. No controls are in place over the use of this debit card as they are with checks, raising a red flag over the checks and balances of financial control.

Record Maintenance and Retention

A visit was made to the station to view bank account check stubs as well as review a box of compiled receipts from 2014 and 2015. There was no system set up to keep receipts and invoices in order and organized. Records should be maintained in an organized, systematic manner so they can be easily accessible at all times. Records should be properly documented to support the disbursement.

While going through a stack of miscellaneous receipts, we found multiple insurance checks dated back in 2014 in the amount of \$5,470.14 that were never deposited. This issue arose in our previous review of the department in 2013 of checks not being deposited in a timely manner and were now void. Had the above been in existence, the checks that weren't deposited may have been prevented.

Government Compliance:

The Anahuac Emergency Corps was created with the original Articles of Incorporation, now known as the Certificate of Formation, in 1959. The original creation of the department was ***“to be***



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supported wholly by voluntary contributions of labor, money and material and will charge no fees for its service...". The only amendment made to the Articles of Incorporation was in 1965 to change the duration of the corporation from 41 years to life and it created a plan for the dissolution. As of today, the Anahuac Emergency Corps relies heavily on funds from Chambers County as well as funds paid by the patient's and their insurance company. Both of which conflict with the Articles of Incorporation. Furthermore, the AEC has paid employees and therefore are not in compliance with their charter. The AEC is not paying state sales taxes. While volunteer fire departments are automatically exempt from sales tax by law, EMS are not. The AEC may become exempt by applying with the state but they are not exempt by strictly being a 501(c)(3) organization. Since the AEC is not paying sales tax on purchases, this may put them at risk of having potential tax liabilities, penalties and interest, if audited by the State Comptroller.

Board of Directors and Management:

An issue has arose where paid employees are also serving on the Board of Directors. This has created some conflict of interest in the governing of the organization. The PPC's Guide to Audits of Nonprofit Organization recommend that auditors pay particular attention to a nonprofit organization that has "**a very small board and/or few, if any, independent board members.**" The AEC struggles to maintain a full slate of directors and has continued to amend its bylaws to reduce the minimum number of directors required. An **independent voting member** of a governing body is defined in IRS FORM 990 Instructions Glossary and of significance is the requirement that:

1. The member was not compensated as an officer or other employee of the organization or of a related organization (see the instructions for Schedule R (Form 990), Related Organizations and Unrelated Partnerships), except as provided in the religious exception discussed in the instructions for Form 990, Part VI.

The Board of Directors should be composed of individuals who are informed and active in overseeing the AEC operations and finances. If the Board allows a sense of secrecy or neglect, we are concerned that the assets will more likely be diverted to benefit the private interest of those on the Board at the expense of the public and the taxpayers. Successful Board of Directors include volunteers who are not only knowledgeable and engaged, but chosen with the AEC needs in mind. Small boards run the risk of not representing a sufficiently broad public interest and lacking the required skills and other resources to effectively govern the organization.

The AEC Board of Directors does not receive proper information to provide financial oversight with the present information provided. The Treasurer should work hand in hand with the professional organization engaged to help keep their financials in order and be familiar with reports, journals, budgets, etc. prepared by the organization. The Board should review, especially the Treasurer, the Tax Return Form 990 in conjunction with reviewing the annual financial statements.



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Nonprofit organizations are required by the Secretary of State to file a Nonprofit Periodic Report to maintain their nonprofit status with the state. The officers of the Board should be aware of all reports to be filed with government agencies to maintain in compliance. The AEC status was involuntarily revoked in 2013 for failing to file the periodic report but a report has been filed and the status has been reinstated.

Findings:

1. Budgets are not prepared by the Anahuac Emergency Corps.
2. The organization does not prepare receipt and disbursement journals.
3. The Treasurers report is insufficient.
4. The Anahuac Emergency Corps does not reconcile bank statements.
5. No monthly reports are received from the billing company.
6. No annual financial statements are being prepared as required in the Texas Business Code.
7. The organization does not engage professional services.
8. The 2014 Tax Return Form 990 does not agree with AEC records.
9. Debit cards and online bill pay are used to pay monthly expenses without controls in place.
10. Deposits are not made timely (some not at all).
11. Record maintenance and retention lacks organization.
12. Certificate of Formation does not comply with the organizations current operations.
13. The AEC is not exempt from sales taxes but does not pay sales taxes.
14. Board of Directors are not independent.
15. Bylaws continue to be amended to reduce the number of required directors.
16. Minutes of the Board meetings are inadequate.
17. No minutes for the 2014 year.
18. Nonprofit Periodic Reports were not filed when due.

Recommendations:

1. Budgets should be prepared annually and budgeted by month. Significant amounts to be budgeted in the month expected. Prepare annual list of equipment needed (capital improvement plan), when needed, and approximate costs.
2. Monthly receipt and disbursement journals should be prepared and compared to the budget.
3. The Treasurer's report should include bank statements, receipts and disbursement journals, unpaid bills at month end and current cash requirements.
4. Bank statements should be reconciled on a monthly basis.
5. The organization should receive monthly reports from the billing company and the collections for the month should be reconciled to the monthly deposits. The billing reports are necessary to prepare proper financial statements.



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6. Improve billing and collection processes and procedures.
7. Annual financial statements should be prepared in accordance to the Texas Business Code. These statements should be prepared with the assistance of a professional accounting organization. Accurate financial statements will ensure that the Tax Return Form 990 is correct and assist in preparing the annual budget.
8. The annual Tax Return Form 990 should agree with the financial reports, compared for accuracy, and reviewed by the Board.
9. We recommend that the debit card be used only in emergency situations and checks be used again to pay the monthly bills. The check stub should have a description of the purchase and all paid invoices should have written on the invoice, the check number it was paid by.
10. Checks received should be reported in the receipts ledger by date received and deposited. Deposit slips should list each check being deposited.
11. Written procedures should be in place on how files are to be maintained. Receipts and paid invoices should be organized in a systematic manner. Receipts should be documented to support the transaction.
12. Bylaws should be amended to require that the majority of the Directors be independent, non-paid non-employees of the organization. The Board should include independent members and should not be dominated by employees or others who are not, by their very nature, independent individuals because of family or business relationships. The minimum number of required directors should exceed the current number (4) and we recommend a full slate of directors (currently 15). The original Articles of Incorporation required 8 directors.
13. Prepare and implement a Board of Director's succession and sustainability plan.
14. Meeting minutes should include the Boards approval of all expenses. In the 2015 minutes, there were references to a Treasurer's Report but none were included. The Treasurer's report should always be included in the minutes. The minutes do not indicate that the Board is exercising proper oversight.
15. A conflict of interest policy be created and enforced. The directors of the AEC have a duty of loyalty to the organization. This requires that the directors act in the best interest of the AEC rather than in their personal interest or some other person or organization. This should include written procedures for determining whether a relationship or financial interest results in a conflict of interest. It should also include a course of action in the event a conflict arises.
16. A full time EMS Supervisor with good management and leadership skills will improve operations. The AEC has created a full time Executive Director which came with a job description. This position should comply with every aspect of its job description. This person should also be qualified in the medical emergency field and have strong management and leadership skills.
17. A certain portion of Chambers County funds should be restricted to a reimbursable basis for professional assistance in meeting financial reporting requirements and legal governmental compliance.



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18. Annual continuing education for EMS Supervisor/ Executive Director and personnel should be required and maintained as a requirement for funding.
19. Annual Board training should be required. Each volunteer should understand their positions roles and responsibilities and fulfil them to the best of their capability.

Conclusion:

This engagement did not include a full audit of records due to ongoing document collection challenges, but instead provides an overview of Anahuac Emergency Corps operations and recommended improvement initiatives.

We made numerous recommendations in our prior audit conducted in 2013 that are stated above. However, none of those have been implemented.

A compilation of financial statements were created to gain a better understanding of how the organization was operating financially. The auditor's office created these special purpose financial statements based on the cash basis. The cash basis does not follow Generally Accepted Accounting Principles. These statements were prepared to demonstrate the lack of comparability when deposits are not made timely and when bills are not paid timely. Because of that, the financial statements do not fairly represent the Statement of Activities due to the expenses not being made in the correct year.

The effects on the financial statements of the variances between the cash basis of accounting and Generally Accepted Accounting Principles, although not reasonably determined, are presumed to be material. In our opinion, because of the significance of the departure from Generally Accepted Accounting Principles, the financial statements do not present fairly the financial position of Anahuac Emergency Corps as of December 31, 2014 and 2015, and the changes in its net assets for the years then ended. Therefore, these financial statements should not be used by third parties.

Our audit did not include an audit of HR and EMS operations, but in reviewing the meeting minutes it is evident that the organization should seek professional HR assistance.

Based on the information we gathered in preparing this report, it is our conclusion that Anahuac Emergency Corps does not function efficiently and effectively and must implement the recommendations we have made, in addition to implementing best practices from comparable organizations. Current operations subject the organization to risk of significant penalties and interest, and unnecessary and need for taxpayer funding from the County. Based on current Board operations, the Board does not provide proper oversight as a governing body and does not meet the responsibilities of Board members.



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We recommend that the Chambers County Commissioners' Court revise the County Funding agreement to include, as a condition of County funding, the implementation of, and compliance with the enclosed recommendations so that taxpayer funding is used to the maximum benefit of the citizens and to mitigate the risk of exposure to excessive penalties, interest, legal fees, and personal gain. We recommend that the organization remain on monthly funding until such requirements are met.