



Oklahoma Military Department Special Audit July 1, 2000 through December 31, 2004

JEFF A. McMAHAN, CFE

OKLAHOMA OFFICE
OF THE
STATE AUDITOR & INSPECTOR

Why the audit was performed

The Adjutant General requested
the audit pursuant to
74 O.S. 2001, § 227.8.

Audit Summary:

- ✓ We were provided records concerning cadet usage that appear to be factually inconsistent with documents obtained from other sources. **Page 4**
- ✓ We were unable to refute or confirm that cadets were used to work on the private residences of the Company B Director or the OJA Liaison Officer. **Page 5**
- ✓ It appears that cadets were used at an OMD employee wedding. **Page 6**
- ✓ Thunderbird Challenge, Inc. (TCI) is a private non-profit entity that is operating out of a state agency and involving state employees. We were unable to substantiate that OMD employees are being paid for work performed on behalf of TCI. We are unable to identify a statutory conflict of interest involving TCI payments to OMD/TCI personnel. **Pages 9-12**
- ✓ It appears that State employees planned, coordinated and held a fund raising event in their function as State employees. The proceeds of that event were then given to the private TCI entity. Further, it appears that State employees are being used in their official capacity during certain events that raise funds for TCI. **Pages 14 –16 & 18-21**
- ✓ Youth cadets from both federal and state programs are used during fundraising events, the proceeds of which are then provided to TCI. **Pages 16-17**
- ✓ State employees planned and coordinated a fund raising event, the proceeds of which appear to have not been used as was advertised in the fund raising letters. **Page 19**
- ✓ Lease agreements were not approved by The Adjutant General. **Page 22**



State of Oklahoma
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**OKLAHOMA MILITARY
DEPARTMENT**

July 2000 through December 2004



JEFF A. MCMAHAN, CFE
Oklahoma State Auditor & Inspector

**OKLAHOMA MILITARY DEPARTMENT
SPECIAL AUDIT REPORT
JULY 1, 2000 THROUGH DECEMBER 31, 2004**

This publication is printed and issued by the State Auditor and Inspector as authorized by 74 O.S. 2001, § 227.8 and 74 O.S. 2001, § 3105. Thirty-five copies have been prepared and distributed at a cost of \$96.00. Copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries.



STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

August 29, 2005

Oklahoma Military Department
Major General Harry Wyatt
Adjutant General - State of Oklahoma
3501 Military Circle
Oklahoma City, Oklahoma 73111

Transmitted herewith is the Special Audit Report of the Oklahoma Military Department. We performed our special investigative audit in accordance with the requirements of **74 O.S. 2001, § 227.8**.

A report of this type is critical in nature; however we do not intend to imply that our report failed to disclose commendable features in the present accounting and operating procedures of the Oklahoma Military Department.

The Office of the State Auditor and Inspector is committed to serve the public interest by providing independent oversight and by issuing reports that serve as a management tool to the State. Our goal is to ensure a government, which is accountable to the people of the State of Oklahoma.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our Office during the course of our special audit.

Sincerely,

A handwritten signature in blue ink that reads "Jeff A. McMahan".

JEFF A. McMAHAN, CFE
State Auditor and Inspector

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STATE OF OKLAHOMA
OFFICE OF THE AUDITOR AND INSPECTOR

Jeff A. McMahan
State Auditor and Inspector

Oklahoma Military Department
Major General Harry Wyatt
Adjutant General - State of Oklahoma
3501 Military Circle
Oklahoma City, Oklahoma 73111

In accordance with the requirements of **74 O.S. 2001, § 227.8** we performed a special audit with respect to the Youth Programs Division of the Oklahoma Military Department, for the period July 1, 2000 through December 31, 2004.

The objectives of our special audit primarily included, but were not limited to:

- The formation and operation of a private non-profit corporation;
- The relationship of the Oklahoma Military Department and a private non-profit corporation;
- Use of State property;
- Management of State funds by a non-profit entity;
- Contracts with a non-profit entity;
- Use of cadet labor;
- Employees collection, accounting, and distribution of funds for a non-profit entity; and
- Collection of funds from donations and fundraising activities.

Our findings and concerns related to these procedures are presented in the accompanying report.

Because the above procedures do not constitute an audit in accordance with generally accepted auditing standards, we do not express an opinion on the account balances or financial statements of the Oklahoma Military Department for the period July 1, 2000 through December 31, 2004.

Further, due to the test nature and other inherent limitations of a special audit report, together with the inherent limitations of any internal control structure, there is an unavoidable risk that some material misstatements may remain undiscovered. This report relates only to the accounts and items specified above and do not extend to any financial statements of the Oklahoma Military Department taken as a whole.

This report is intended to provide information to The Adjutant General. This restriction is not intended to limit the distribution of the report, which is a matter of public record when released.

Sincerely,

A handwritten signature in blue ink that reads "Jeff A. McMahan".

JEFF A. McMAHAN, CFE
State Auditor and Inspector

July 19, 2005

Introduction

OMD Youth Programs Division

The Oklahoma Military Department (OMD) was established in 1951 to serve as the administrative agency for the state based military services including the Oklahoma Army National Guard. The Adjutant General, appointed by the Governor of Oklahoma, serves as the executive officer of OMD.

OMD operates the Whitaker Education Training Center (WETC) in Pryor, Oklahoma. This facility houses the Thunderbird Youth Academy (TYA), Thunderbird Regimented Training Program (TRTP) and Thunderbird Trades Academy (TTA).

Our report primarily focuses on issues related to cadets and employees of the TRTP Bravo Company. Bravo Company is also referred to as Company B. TRTP began in 1998 with the focus of promoting discipline, education, fitness and community involvement with cadets ranging in ages from 12 to 18.

Company B consists of cadets that are in the Office Of Juvenile Affairs (OJA) custody. Company B is a state funded program accomplished through interagency agreements between OMD and OJA.

Thunderbird Challenge, Incorporated (TCI) is a private non-profit entity incorporated in Oklahoma. One of the primary concerns expressed to us involved the relationship between the OMD programs and TCI.

We obtained two *Command & Coordination* documents from OMD entitled "National Guard Youth Program Division Command & Coordination Structure". One of these documents reflects the structure in place in 2001; the other reflects the proposed 2005 structure. We noted that both include TCI.

TCI holds fundraising events including golf tournaments. In 2000 TCI held a golf tournament in Pryor, Oklahoma. Among the guests listed at the tournament was the then Adjutant General.

TCI has, apparently, been involved with the OMD youth programs for several years, seemingly with the knowledge and permission of OMD.

USE OF CADETS

CONCERNS:

- Cadets were used to work on a vehicle owned by the Company B Director.
- Cadets were used for labor at the Company B Director's home.
- Cadets were used to roof a house belonging to the Company B OJA Liaison.
- Cadets were used to move personal effects of the Company B OJA Liaison.
- Cadets were used at the Company B Administrative Assistant's wedding.
- Cadets were and are being used for TCI fund raising events.

Findings:

Cadets were used to work on a vehicle owned by the Company B Director.

We interviewed the Company B director who stated that in 1999 he purchased a 1960 Chevrolet Impala for \$800.00. The director purchased this vehicle for the cadets to work on in an elective mechanics class.

The Director stated that he purchased all of the parts and supplies that were used during the class. In addition to paying for parts, the Director also paid other OMD employees to work on the vehicle. At the conclusion of the class, the Director stated that he sold the vehicle for \$2,400.00 and that he had "*probably lost a couple thousand dollars*".

We asked for documentation supporting that there was a mechanics class during the time the vehicle was being worked on. We were provided two *Daily Training Schedules (DTS)* one for cycle 3 (10/98 – 12/99) and one for cycle 4 (3/99 – 6/99).

Both of the DTS forms indicate that there was a mechanics elective during cycles 3 and 4. Additionally both DTS forms included the names of the cadets that were in each elective class for the respective cycles.

We obtained class books for Company B for cycles 3 and 4. The class books include the elective classes offered to the cadets for a given cycle. The class books do not reflect a mechanics class for cycles 3 and 4.

Moreover, we noted that the cadets listed on the DTS (cycle 3) as having been in the mechanics class are listed in the class book as having been enrolled in either the honor guard or woodshop classes.

According to the DTS there was not an honor guard elective for this cycle.

The DTS form provided to us for cycle 4 also indicated a mechanics elective and listed the cadet names enrolled in that elective. The class book for this cycle also does not indicate a mechanics elective.

Additionally, the cadet names listed on the DTS as having been enrolled in the mechanics class are listed in the class book as having been enrolled in the honor guard elective.

The cycle 4 DTS provided to us does not list honor guard as being an available elective for this cycle.

We obtained an enrollment schedule of electives for cycles 4, 5 and 6 (3 was not available) from the education department. According to these schedules there was an honor guard during cycle 4 and there was not a mechanics elective for cycle 4. Additionally, the cadet names listed as having enrolled in the honor guard elective are the same cadets listed on the DTS as having been enrolled in the mechanics elective.

The first indication of a mechanics class, according to the class books and the education department enrollments, was a mechanics class offered in cycle 6 (11/99 – 2/00). We contacted the instructor of this class who stated that there had only been one mechanics class and that he was the only person that taught this class.

Records provided appear to be factually misrepresented.

This concern relates directly to alleged actions of the Company B Director. The Company B OJA Liaison who is the spouse of the Company B Director provided the DTS documents to us.

From independent documents obtained, and through interviews of several OMD employees, it appears that the DTS documents provided to us are inconsistent with the other documents; therefore, we question the validity of the DTS documents.

Unable to Substantiate

Cadets working on homes of the Company B Director and the OJA Liaison.

We interviewed one OMD employee who stated that he had taken cadets to the home of the Company B OJA Liaison and also to the home later shared by the OJA Liaison and Company B Director.

We examined *Lightning Reports* for Company B. *Lightning Reports* are reports combined from individual Sergeant's reports, referred to as DSO's. When a cadet or group of cadets leaves the grounds this information is recorded in the DSO and then later recorded in the *Lightning Report*.

We examined the *Lightning Reports* and found that in many instances the report entries documenting cadets leaving the grounds were vague. We cite the following examples:

- 9 cadets depart post w/cadre for Livermore Ranch detail.
- Depart post for CP in Pryor with 8 cadets w/Cadre.
- A/F cadets w/Cadre depart post for CP in Chouteau.
- 3 female cadets depart post w/staff for Community service project in Pryor.
- 8 cadets to Claremore CP.
- PSG [name] taking 8 cadets on an off post work detail.

We interviewed one OMD employee who stated that in both instances when he took cadets to the homes in question he was specifically told by his Supervisor not to reflect the off-post work on his DSO log. He stated that he did as instructed.

Additionally the employee stated that he wrote a report concerning what he believed was misuse of the cadets. The employee turned that report in to the former Assistant Commandant for Company B.

We contacted the former Assistant Commandant for Company B who stated that he did have records concerning potential misuse of cadets, however, while he was on medical leave those records were removed from his office without notification.

We contacted the employee's Supervisor who stated that he did not remember specifically instructing a subordinate to not record something on the DSO logs, however, he did state, *"that there were just some things you knew not to put on the report"*.

Additionally the Supervisor also had an independent recollection of the cadets having performed work at the residence of the Company B Director and OJA Liaison.

We asked both the Company B Director and the OJA Liaison if any cadet had ever performed any work at their residence. Both stated that no cadet had ever performed any work of any kind at his or her residences.

We are unable to substantiate or refute this allegation from the records made available to us.

Cadets used during wedding of an OMD employee.

We interviewed the Administrative Assistant who stated that four or five female cadets decorated the church in preparation for her wedding. It was her recollection that the cadets went to the church the previous evening (May 23, 2002) to decorate the church and that the cadets also attended the wedding held on May 24, 2002.

We interviewed the on-duty sergeant in-charge of the cadets. She stated that four or five female cadets decorated the church the same day as the wedding, attended the wedding and then cleaned up afterwards. Furthermore, the Sergeant in-charge stated that the cadets had volunteered and had "asked and asked" to be a part of the wedding.

We obtained the *Lightning Report* for May 24, 2002 and found the following entries that appear relevant:

15	1545	8 CDTS OFF POST CP @ CHURCH	LOGGED	CADRE
18	1820	8 CDTS RETURN TO POST FROM CHURCH ,16 CDTS @ RODEO & 21 CDTS ON GROUND	LOGGED	CADRE

It appears that the cadets were used at the wedding of the Company B Administrative Assistant.

We obtained the Company B Standard Operating Procedure (SOP), which states, in relevant part:

- 3) *The community service project must serve the community (not business or for any personal gain by an individual for profit).*

**Cadets moved
personal effects
of an OMD
employee.**

We interviewed the Company B Director concerning this allegation. He stated that when the OJA Liaison moved from Broken Arrow to Pryor, her belongings were moved in a horse trailer and stored on the grounds.

According to the Company B Director there was an issue with the lights on the trailer not working and an immediate need to get the trailer unloaded before dark. The Company B Director asked if any of the cadets wanted to volunteer to help unload the trailer. Subsequently eight (8) cadets unloaded the trailer containing the OJA Liaison's property.

The Company B Director stated that this matter had already been addressed as a personnel issue.

**Cadets are
used for TCI
fundraisers.**

We interviewed the youth programs Director who stated that cadets from both Company A and Company B were used for the various TCI fund raising events. Additionally we also interviewed the Company B Director who also stated that cadets are used for TCI fundraising events.

We noted in our examination of the *Lightning Reports* certain entries indicating that cadets from Company B were participating in various car wash events. The Company B Director stated that these were TCI fund raising events.

It appears that cadets from Companies A and B are being used for TCI fundraising efforts. TCI is a private non-profit 501(c)(3) that was created to benefit the youth service programs including the Company A and B programs, among other youth programs.

Cadets from Company B are court ordered to participate in the Thunderbird Regimented Training Program effectively making them wards of the state.

OMD had similar difficulties with internal investigation.

Prior to our audit, the Oklahoma Military Department (OMD) conducted two internal investigations. These investigations involved some of the same areas of concern that were expressed to us.

We met with the investigator that performed these prior investigations. The investigator related certain specific concerns that were encountered during their internal investigation.

The following concerns were expressed in the internal investigation:

- Difficulty in obtaining documents.
- Documents obtained were questionable.
- Records were missing.
- Staff personnel were not following policies and procedures.
- Administrative personnel were not following policies and procedures.
- Inconsistencies between OJA and Company B records.

The OMD investigator stated that the problems they encountered related primarily to Company B records and personnel.

Some of the concerns we were asked to investigate related directly to the Company B Director and the OJA Liaison. The Company B Director and the OJA Liaison are husband and wife.

Moreover, when we needed records related to Company B we were compelled to ask the OJA Liaison. Most of the allegations concerning misuse of the cadets centered on the activities of either the Company B Director or his wife, the OJA Liaison officer.

This effectively put us in the position of requesting documentation to support or oppose allegations from the very people the allegations are being leveled at.

As previously noted in our report it appears that some of the documents provided to us are inconsistent with other documents from other sources. The OMD investigator also felt that OMD was also provided records that were questionable.

RECOMMENDATION:

OMD should obtain the Company B records and conduct a thorough investigation into the allegations and concerns raised during the OMD investigation and our audit or refer these issues to the appropriate legal authorities.

We recommend that the appropriate legal authority review the use of the Company A and B cadets being used to raise money for a private non-profit entity.

The Adjutant General should consider implementing a policy requiring approval prior to the performance of any community service projects. At a minimum, internal reports should contain a detailed description of the project, including the specific location and work performed.

**Thunderbird
Challenge Inc. (TCI)**

Concerns:

- Thunderbird Challenge Inc. operates out of Thunderbird Youth Academy and uses TYP equipment, personnel and materials to further its business.
- Thunderbird Challenge Inc., a private non-profit entity, is operating out of a state agency.

Findings:

A private non-profit entity is operating out of a state agency.

The Thunderbird Challenge Inc. office is located in the headquarters of the Whitaker Education Training Center, which is operated by the Oklahoma Military Department. Two OMD employees handle the purchasing and accounting for Thunderbird Challenge Inc. Essentially, TCI is operating out of a state agency.

Although the purpose of TCI is to support youth programs for the Oklahoma Military Department, this creates a situation in which a private non-profit entity is administered by a state agency. One employee makes purchases and signs checks, and another performs the accounting. In an interview with the youth programs director, the work they perform for TCI is done during lunch hours and after 4:00pm. He stated that he might sign a check or send an email on state time.

We cannot confirm the amount of time spent conducting TCI business on state time; however, because of the location of the TCI office and records, there is little to prevent the commingling of TCI and OMD duties.

We verified that the computer in the TCI office was purchased by TCI.

While reviewing TCI expenditures, we noted that TCI purchased supplies and materials. It was not possible for us to confirm that all supplies and materials used by TCI were purchased with TCI funds. Although the purpose of TCI is to support the youth programs for Oklahoma Military Department, there is an apparent lack of autonomy between OMD and TCI.

A state agency administering a non-profit entity appears to be in violation of **Article X Section 15** of the **Constitution of Oklahoma**, which states:

15. Pledge or loan of credit - Donation - Exceptions.

A. Except as provided by this section, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State, nor shall the State become an owner or stockholder in, nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation.

. In addition **AG Opinion 81-114** provides:

It is, therefore, the official opinion of the Attorney General that Okla. Const., Art. 10, §15, prohibits State employees from conducting private business from a state-owned facility.

Recommendation:

We recommend TCI office be relocated to a site away from Thunderbird Youth Academy.

Concern:

Does TCI have potential accountability issues that could reflect poorly on OMD and TYP?

FINDING:

TCI is a 501 (c)(3) entity that is not a component part of OMD.

Thunderbird Challenge, Incorporated (TCI) is a 501(c)(3) private not-for-profit entity incorporated through the State of Oklahoma on November 23, 1993.

Article 4(b) of the *Articles of Incorporation* state the following:

(b) Without limiting the generality of the foregoing, one of the principal purposes of the Corporation shall be the fostering of opportunities for the youth of Oklahoma participating in the Thunderbird Challenge Program through making of grants and/or contributions to the Program to enable it to meet expenses and provide a higher quality of service.

TCI is operated under the control of the TCI Board of Directors. While examining TCI records we noted that an independent audit of TCI is performed annually. Additionally we were advised that the United States Property and Fiscal Office (USPFO) have audited TCI on previous occasions.

In the Articles of Incorporation for TCI we noted the following:

This Corporation is organized and operated exclusively for assisting and supporting the Oklahoma Youth Challenge Program in the State of Oklahoma, including but not limited to the following [...]

We obtained a Department of Defense Instruction (DODI) on the subject of the National Guard Challenge Program. Section 6.2 of that document states the following:

6.2 At a minimum, State plans shall include details on application and selection procedures, number of students trained, staffing, staff training curriculum, facilities and services, State public and private services to be provided, post-residential program, establishment of non-profit organization [emphasis added].

TCI's connection, and possible reflection on OMD, appears to be largely due to OMD employees being involved in TCI functions and TCI being housed at an OMD facility.

RECOMMENDATION:

If OMD is concerned about employees being involved with TCI, we recommend that OMD determine what options may be available to them through OMD personnel policies and procedures.

Concern:

- How are salaries paid or individuals compensated for TCI job related functions?

FINDING:

The purpose of TCI is to support the at-risk youth programs operated by OMD.

Because TCI is a private entity we cannot hold TCI to the same standards that we might to a typical governmental entity. However, we examined TCI expenditures for the period from January 2000 through March 2005.

During our examination we identified payments from TCI to various OMD personnel. Based on our examination these TCI expenditures appear to have been reimbursements for OMD employee expenses and/or advances on travel.

It appears from an overall examination of TCI expenditures that TCI is supporting the various youth programs and services. We noted on the TCI website (tciropes.com) the following:

Thunderbird Challenge, Inc. was incorporated in 1993 to support the at-risk youth programs operated by the Oklahoma Military Department (OMD). We accomplish this by offsetting the budgetary imbalances of federal and state funding so the youth program initiatives are not reduced, or reductions held to a minimum.

We noted during our examination that TCI has provided funding for the Thunderbird Challenge Adventure Course (ROPES), various scholarships as well as rewards for Companies A and B.

We examined one hundred (100) expenditures for the period from February 2000 through March 2004 with the following results:

- 100% included a TCI *Request for Funds* form.
- 72% included supporting receipts.
- 59% of the supporting receipts matched the check amount.

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- 13% of the transactions with receipts included a variance.

The thirteen (13) instances where we found a variance between the TCI payment amount and the supporting receipt amount included six instances where the receipt amount *exceeded* the TCI payment amount.

We noted seven (7) instances where it appears that TCI provided funds in advance. Four (4) of the seven (7) appear to have been travel advances.

In seven (7) instances we identified where subsequent deposits were made to the TCI account for either the total amount or the difference between total amounts and receipts provided. In these seven (7) instances we found a variance of \$17.25 that we were unable to reconcile.

Ck #	Ck Date	Ck Amt.	Rec.Amt	Sup.Dep.	Dep.Amt	Var.
787	4/27/2000	\$1,625.00	\$625.50	5/18/2000	\$982.25	\$17.25
950	4/4/2001	\$400.00	\$352.90	5/22/2001	\$47.10	\$0.00
955	4/20/2001	\$290.00		6/12/2001	\$290.00	\$0.00
956	4/20/2001	\$290.00		6/12/2001	\$290.00	\$0.00
990	7/6/2001	\$220.00	\$149.33	8/20/2001	\$70.67	\$0.00
1014	8/29/2001	\$50.24	\$47.88	8/31/2001	\$2.36	\$0.00
1570	3/31/2004	\$240.00			\$240.00	\$0.00
		\$3,115.24	\$197.21		\$1,922.38	\$17.25

It appears that TCI is providing advance funding for certain functions that may be reimbursed by the State of Oklahoma. In one instance, for example, we found a TCI *Request for Funds* that included the following:

To be reimbursed by [employee name] upon receipt from state.

We identified a subsequent corresponding deposit from the named employee to the TCI account in the same amount.

We were unable to establish that any OMD employees are receiving compensation for work associated on or with TCI.

RECOMMENDATION:

TCI is a private entity under the control of the TCI Board of Directors. It is not within the purview of the State Auditor and Inspector to suggest or recommend how private entities should or should not operate.

Concerns:

- Michael's Touch, a business owned by the Director of the Youth Programs Division, selling merchandise to TYP or TCI gives the appearance of inappropriateness or a conflict of interest.
- "Has TCI, OMD, or TYP bought anything from Showcase Productions? The owner of Showcase Productions...is a board member of TCI and also an ex-OMD employee. This may give the appearance of impropriety.
- "Has TCI, OMD, or TYP contracted with Williams Construction? The owner of Williams Construction... is a board member. This may give the appearance of impropriety."

Finding:

No Statutory Conflict of Interest

It was confirmed in an interview that the Youth Programs Division Director is the owner of a local business, Michael's Touch.

TCI is a private entity and we found no statutes, which would preclude TCI from purchasing items from the Director's business. In an interview, the Director stated that when the issue of him selling merchandise to TCI was raised, he resigned as a voting board member and became an advisor. He also discontinued selling merchandise to TCI.

It appears TCI discontinued purchasing items from Michael's Touch. Based on our review of TCI checks, the last payment to Michael's Touch was November 13, 2001.

In an interview with the Director it was confirmed that former TCI Board members are owners of Showcase Productions and Williams Construction. Both individuals are currently listed as ex officio members.

Since there does not appear to be any conflict of interest statutes related to board members of non-profit entities; the conflict of interest issue is one of appearance and not of law.

Recommendation:

No recommendation is necessary.

Donations and Fundraisers for TCI

Concerns:

- OMD employees are soliciting donations for TCI.
- OMD employees are participating in fundraising activities for TCI.
- OMD employees are accepting donations on behalf of TCI.
- Youth from state and federal funded programs are used for fundraising activities for TCI.

Findings:

State employees involved with soliciting donations for a non-profit entity.

State employees soliciting donations on their own time would not be an issue. However, documentation supports that State Transportation and Reintegration System (STARS) employees, a division of OMD, were soliciting donations on behalf of TCI as part of their regular duties. The soliciting of donations appears to be a TCI function and not the function of employees of a state agency. This practice creates a situation in which state employees are conducting business for a private entity on state time.

The following evidences this:

- A February 14, 2002 letter from a STARS employee. The letter provides in relevant part:

"...one of my responsibilities for my position in the STARS program was to solicit donations to be used as rewards for the youth we served."
- STARS employees maintained donation logs.

We found no documentation indicating one of the responsibilities of STARS employees was to solicit donations.

State employees are collecting donations on behalf of a non-profit entity.

Documentation indicates the STARS division of the Oklahoma Military Department was accepting donations on behalf of Thunderbird Challenge Inc. As noted in the findings related to the District K golf tournament, donations were accepted for a STARS fundraiser. We also noted that it appeared that it was not uncommon for STARS employees to accept donations in support of the youth programs on behalf of TCI.

In addition, Company B cadets hold free carwashes and perform community service. An interview with the Youth Programs Director indicated the car washes are free, but donations are accepted. This creates another situation in which OMD (state) employees are collecting donations on behalf of TCI (a non-profit entity).

We do not take issue with TCI volunteers receiving donations to benefit the OMD youth programs. However, when the volunteers receive donations for TCI while on duty as an OMD (state) employee, this appears to violate **Article X § 15** of the **Constitution of Oklahoma**. In addition **AG Opinion 81-114** provides:

It is, therefore, the official opinion of the Attorney General that Okla. Const., Art. 10, §15, prohibits State employees from conducting private business from a state-owned facility.

State employees are involved in fundraising activities for a non-profit entity.

The Youth Programs Director advised us that the Company B cadets participate in two fundraisers that benefit TCI including a haunted house project and the *Parade of Trees*.

He stated that these are considered community service projects. Both of these activities are fundraising events that benefit TCI.

Additionally we noted that the TCI website contains the following:

We also have many other programs to help us raise funds. In September 2004 we will be holding our annual Golf Tournament.

Pictured below that statement are three pictures, two of which show what appears to be a cadet posing with several individuals holding golf clubs.

We also have many other programs to help us raise funds. In September 2004 we will be holding our annual Golf Tournament.



Source: tciropes.com

We are placed in the same position with regards to the OMD employees involved in supervising the cadets during these activities. In this instance OMD employees are supervising cadets participating in events that benefit TCI.

Again we refer to the Company B Standard Operating Procedure (SOP), which states, in relevant part:

The community service project must serve the community (not business or for any personal gain by an individual for profit).

Again we cite TCI's stated purpose:

Thunderbird Challenge, Inc. was incorporated in 1993 to support the at-risk youth programs operated by the Oklahoma Military

Department (OMD). We accomplish this by offsetting the budgetary imbalances of federal and state funding so the youth program initiatives are not reduced, or reductions held to a minimum.

From our examination of the TCI financial records, it appears that TCI is providing support for the youth programs. We identified, as cited previously in this report, that TCI is supporting the ROPES course, youth scholarships and rewards for the various youth programs.

It appears that TCI is providing funding for certain aspects of the youth programs for which no state or federal funding is available. However, the TCI fundraising events raise two significant issues concerning the function of the state employees (and cadets) involved:

- If the TCI fundraising events are determined to be valid community service functions then clearly the OMD personnel may continue to supervise the cadets in performing such service. However, collecting donations for TCI as state employees on state time is clearly prohibited.
- If the TCI fundraising events are determined to not be valid community service functions then OMD employees should engage in such activities only as private individuals and not as state employees and these functions could not be performed as part of their official duties.
- Further, the use of state-owned vehicles to transport cadets to and from the fundraisers, as well as the use of state facilities in these efforts would be in violation of Oklahoma law.

Youth from state
and federal
programs
participate in
fundraisers for a
non-profit entity.

In an interview with the Youth Programs Director, it was indicated that Company B youth operate an annual haunted house that raises approximately \$7,000.00 for the program and also participate in another fundraiser, the annual Parade of Trees. Company B runs a regimented training program for approximately 30 youth.

This program is operated through an annual state contract with the Oklahoma Office of Juvenile Affairs.

According to the Youth Programs Director, the purpose of the fundraisers is to benefit their program and they are considered community service. The Parade of Trees is to raise funds for the Company B Christmas, since they are not allowed to go home. We question the appropriateness of youth from a state funded program operating a fundraiser to benefit their program and whether these fundraisers can be considered community service projects.

RECOMMENDATION:

It appears that community service is allowed when the service benefits the community. TCI's support of the youth programs, scholarships and cadet rewards is, conceivably, a benefit to the community. However, the community service guidelines also states "not business".

We recommend that OMD and OJA develop a clear policy defining what constitutes community service. OMD and OJA may consider developing procedures to provide for pre-approval of community service projects.

Additionally OMD may consider seeking an Attorney General's opinion concerning the cadet and OMD employee usage specifically in regards to the TCI fundraising events.

**STARS
District K
Golf Tournament**

Concerns:

- "That proceeds from State Transition and Reintegration System (STARS) District K's golf tournament fundraiser, held in October 2001, was not used as publicly advertised to contributing donors and golf participants."
- The accountability of the \$2,813.60 in tournament proceeds and how the monies collected were used by TCI.

Findings:

District K holds Golf Tournament to raise funds.

Documentation provided indicates STARS District K held a golf tournament at the Lawton Country Club on October 19, 2001. The golf tournament fundraiser appears to be initiated by a STARS District K employee. Based on an email it appears a STARS employee initiated the golf tournament.

The email provides in relevant part:

Now that we are over OPERATION STARS PROJECT, it is time to move on to our next big project that we have deemed as STARS INVITATIONAL -- you guessed it - it's a golf tournament. We want to raise money so we can have a great Christmas party for the youth in our district as well as for the mentors and organizations that have been so helpful and supportive to our program.

Documentation suggests, the concerns relating to the golf tournament originated from a former employee involved in the golf tournament. It is apparent that this employee is concerned that only a portion of the \$2,813.60 profit directly benefited the youth in the district. Since District K did not receive the total proceeds; this apparently raised the concerns that proceeds were not used appropriately and how the balance was used by TCI. The primary concern seems to center on the use of the golf tournament proceeds.

Based on our review of documentation provided and an interview with a TCI representative, it appears TCI was not involved in the fundraiser until the \$2,813.60 net profit was deposited in TCI's bank account on November 30, 2001.

We traced the \$2,813.60 proceeds to deposit at TCI's bank account at First Priority Bank. In an interview with a TCI representative, it was indicated that because one particular district raises, accepts or otherwise forwards to TCI a certain amount of money, does not necessarily imply that the district will receive the same in return. Essentially, TCI pools the money and disburses it as it is needed and requested.

The STARS districts access the funds through a "Request for Support." We noted the District Manager submitted a "Request

for Support", dated December 2001, for "STARS Youth Christmas Gathering" in the amount of \$700.00. Therefore, it appears District K received the amount requested for the Christmas party, which was \$700.00. During fiscal year 2000-01, the district received \$2,836.30 from TCI.

It appears that the concerns related to the golf tournament are the result of a lack of communication between District K employees as to how the proceeds would be utilized.

Proceeds of
Tournament Not
Used as
Advertised.

A letter on STARS letterhead dated October 9, 2001 indicated proceeds from the tournament would be used to have a Christmas party for the youth in the district.

The letter provides in relevant part:

Dear Business Leader:

On Friday, October 19th, 2001, Friday, our organization will be holding a "STARS Invitational" golf tournament at the Lawton Country Club in an effort to raise enough money to provide a fun and safe Christmas gathering for the youth enrolled in our program. Our program helps youth become successful in the community through learning accountability for their actions, tracking efforts, community service and mentorship.

A second letter also dated October 9, 2001, stated in relevant part:

Dear Sir or Madam:

On Friday, October 19, 2001, the "STARS Invitational" golf tournament will be held at the Lawton Country Club in an effort to raise funds to purchase rewards and hold a Christmas party for the youth enrolled in the STARS Youth Program in this district. This program helps youth become successful in the community through learning accountability for their actions, tracking efforts, community service and mentorship. Since the implementation of this program, the recidivism rate has been reduced from 52% to less than 10% for youth that have successfully completed the STARS Youth Program!

This letter was also on letterhead from STARS District K. The District Manager and the mentor/community service coordinator signed both letters.

Although the letters indicate the proceeds of the golf tournament were to be used for the youth "of the district" it appears this was a misconception of District K. This appeared to be a STARS sponsored event, not TCI; therefore, District K would be responsible for any misrepresentation.

Based on complaints issued by the former employee, it is apparent that the former employee was unaware of the TCI practice of pooling the STARS funds and disbursing it as needed and requested.

A state agency sponsored a golf tournament fundraising event.

STARS is an accountability/community service/mentoring program for youth involved in the juvenile justice system. The Oklahoma Military Department / Oklahoma National Guard through a state contract with the Office of Juvenile Affairs operates the program. Essentially, the STARS program is funded with state funds and is operated by a state agency.

From the documentation we obtained surrounding the planning and completion of the golf tournament, it appears that STARS District K initiated and performed a fundraising event. We cite the following:

- Two letters on STARS letterhead stating the intention to hold the "STARS Invitational" golf tournament. Both letters were signed by STARS employees that also indicated their respective official positions in the STARS program.
- The tournament was advertised as a "STARS Invitational" golf tournament.
- A news release on STARS letterhead stating, in relevant part:

"On Friday, October 19, 2001, the State Transition and Reintegration System (STARS) held their first annual STARS Invitational Golf Tournament at the Lawton Country Club."

Although it appears that the intent of the fundraiser was to raise funds to benefit a state youth program, we found no statutory authority allowing a state agency to sponsor a fundraiser.

Similar golf tournaments have been held with Thunderbird Challenge, Incorporated (TCI) as the sponsoring entity. As with this tournament the proceeds of both are designated to aid and supplement the youth programs of the state. However, in this event it appears that the STARS District K golf tournament was operated without the involvement of TCI.

Private non-profit entity receives proceeds from state fundraising activity.

We were unable to find any documentation indicating that the October 2001 Lawton golf tournament was a sponsored event, nor that TCI was involved in any aspect of the golf tournament. To the contrary, it appears from the previously noted letter and news release, that this tournament was initiated and completed by STARS District K personnel.

STARS was a division of the Oklahoma Military Department, a state agency. It appears that the District K golf tournament was a fundraising event sponsored by a state agency.

In this instance it appears that TCI had no involvement in the planning, preparation or execution of the District K golf tournament. On November 5, 2001, the proceeds of \$2,813.60, from the golf tournament, were sent to TCI.

Essentially, by STARS District K sponsoring the golf tournament and not TCI, this created a situation in which property belonging to the state was turned over to a private entity.

State statutes appear to preclude a state agency from donating acquired property to a private entity.

According to **74 O.S. 2001, § 585**:

- A. Any property acquired by the state shall be used only in the conduct of the official business of the state.
- B. Any person convicted of violating the provisions of subsection A of this section is guilty of a misdemeanor.

Also, **Article X Section 15** of the **Constitution of Oklahoma** provides:

15. Pledge or loan of credit - Donation - Exceptions.
- A. Except as provided by this section, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State, nor shall the State become an owner or stockholder in, nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation.

Recommendation:

We recommend the Oklahoma Military Department adopt and enforce an agency policy specifically prohibiting OMD employees' involvement in fundraising activities while on duty.

We recommend the proper authorities review this finding.

LEASES

Concern:

- The facility in Pryor is executing leases without the knowledge and approval of The Adjutant General.

Finding:

The Adjutant General did not approve leases.

Based on interviews and our review of documentation, none of the leases involving the Whitaker Education Training Center in Pryor have been approved by The Adjutant General as required by OMD PAM 5-1-1 3-3:

“... The board, subject to the approval of The Adjutant General, may lease or rent to any person, firm, corporation, or governmental agency...”

There are approximately 15 unauthorized leases that have continued to be renewed on an annual basis without approval from The Adjutant General.

Further, it appears lease amounts have been arbitrarily determined without any determination of fair market value. For example, office space is leased to TCI for \$5.00 a year. We question whether the lease amounts that are less than fair market value could be construed as a gift. The giving of gifts by the state appears to be precluded by **Article X Section 15** of the **Constitution of Oklahoma**, which provides:

15. Pledge or loan of credit - Donation - Exceptions.

A. Except as provided by this section, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, or association, municipality, or political subdivision of the State, nor shall the State become an owner or stockholder in, nor make donation by gift, subscription to stock, by tax, or otherwise, to any company, association, or corporation.

Recommendation:

We recommend that internal controls be implemented to ensure no leases are executed unless approval from The Adjutant General is obtained.

Procedures should be implemented to determine fair market value and the lease amounts should be set accordingly.

We recommend the proper authorities review this finding.