

SPECIAL AUDIT

OKLAHOMA STATE BUREAU OF INVESTIGATION

March 28, 2013



Oklahoma State
Auditor & Inspector
Gary A. Jones, CPA, CFE

OKLAHOMA STATE BUREAU OF INVESTIGATION

SPECIAL AUDIT REPORT

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Oklahoma State Auditor & Inspector

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March 28, 2013

Director Stan Florence
Oklahoma State Bureau of Investigation
6600 North Harvey
Oklahoma City, OK 73116

Transmitted herewith is our Special Audit Report of the Oklahoma State Bureau of Investigation. Pursuant to your request and in accordance with the requirements of 74 O.S. 2001, § 227.8, we performed a limited review with respect to the Oklahoma State Bureau of Investigation.

Because our 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 State Bureau of Investigation.

The goal of the State Auditor and Inspector is to promote accountability and fiscal integrity in state and local government. Maintaining our independence as we provide this service to the taxpayers of Oklahoma is of utmost importance.

We wish to take this opportunity to express our appreciation for the assistance and cooperation extended to our office during the course of our engagement.

This report is addressed to and intended solely for the information and use of the Oklahoma State Bureau of Investigation and other state officials given oversight responsibilities, as provided by statute. This report is also a public document pursuant to the Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.) and shall be open to any person for inspection and copying.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary A. Jones", is written over a horizontal line.

GARY A JONES, CPA, CFE
OKLAHOMA STATE AUDITOR & INSPECTOR

TABLE OF CONTENTS

INTRODUCTION	1
OBJECTIVES, FINDINGS, AND RECOMMENDATIONS	2
APPENDIX – MANAGEMENT RESPONSE.....	13

OBJECTIVES

I. Review the relationship between the Oklahoma State Bureau of Investigation and the ‘Friends of OSBI, Inc.’ a non-profit organization	2
II. Review the relationship between the Oklahoma State Bureau of Investigation and the ‘Oklahoma State Bureau of Investigation Employee Association,’ a non-profit organization.....	7

Introduction

The Oklahoma State Bureau of Investigation (OSBI) was created in 1976 by **74 O.S. §150.1**. The mission of the OSBI is to ensure the safety and security of the citizens of Oklahoma. The OSBI vision is to continue to be the professional law enforcement agency for the State of Oklahoma; to provide specialized apprehension and crime detection services through teamwork, training, research, and implementation of innovative technologies; to recruit and retain the expertise required to meet changing responsibilities; and, to increase public awareness through proactive publicity and education.

Under the provisions of **74 O.S. § 150.8a**, the OSBI is authorized to establish an employee performance recognition program that encourages outstanding job performance and productivity within the Bureau. Through this program, the Bureau is allowed to expend funds for the purchase of recognition awards and for a formal ceremony or banquet where the awards may be presented.

An OSBI Employees Award Banquet is held annually to fulfill the employee performance recognition program outlined in **74 O.S. § 150.8a** above. The possible assistance by outside sources in funding this banquet was of primary interest to OSBI Director Stan Florence. His concern stemmed from a report issued in March 2012, by the Oklahoma State Auditor and Inspector. The report discussed in length the use of alternative funding sources provided through private non-profit organizations for activities managed by a state agency, with responsibilities and activities between a non-profit and a state agency overlapping, with no defined boundaries or oversight.

Based on the information presented in this previously mentioned report, along with possible similarities between the agencies in the management of outside funding sources, OSBI Director Stan Florence requested the State Auditor and Inspector's Office review the practices within the Bureau concerning the utilization of alternative funding sources for OSBI functions; primarily the source of financial support used for the purposes of the annual OSBI Employees Awards Banquet.

There are currently two non-profit organizations that raise funds in the name of and for the purposes of the Oklahoma State Bureau of Investigation; the "Friends of the OSBI, Inc." and the "Oklahoma State Bureau of Investigation Employee Association". The formation and purpose of each of these organizations is further defined under Objective I and Objective II, respectively, along with our evaluation of their functions as they relate to the Oklahoma State Bureau of Investigation.

OBJECTIVE I Review the relationship between the Oklahoma State Bureau of Investigation and the “Friends of the OSBI, Inc.”, a non-profit organization.

Background

The “Friends of OSBI, Inc.” (hereafter Friends), was formed as a not-for-profit corporation in February 2008. The corporation subsequently registered as a Charitable 501(c) 3 Organization in January 2010.

Friends of OSBI, Inc. was organized:

- to provide a public benefit, relief and assistance to, and for the benefit of an Oklahoma state law enforcement agency;
- to conduct community educational programs and inform citizens about crime, scientific, forensic, investigative and laboratory techniques, and advancements;
- to provide collegiate educational aid to children of employees of the Oklahoma State Bureau of Investigation pursuant to fair and equitable qualifications established by the Board of Directors;
- to acknowledge the service of private citizens, volunteers, and law enforcement personnel in the fight against crime;
- to provide financial assistance to the Oklahoma Bureau of Investigation with costs of labor, overtime, and the acquisition of equipment and essential supplies in furtherance of the advancement of forensic and police science; and
- to do all things necessary and incidental in furtherance of said purposes not otherwise prohibited by law.

The Board of Friends is comprised of three directors, with one director also serving as the secretary of the Board. None of the three directors are employees of the OSBI. There also exist a Board President and a Treasurer, both of whom are current OSBI employees. The organization maintains a website at www.friendsofosbi.org, which includes a synopsis of the organizations purpose and activities.

Finding 1

The Oklahoma State Bureau of Investigation and the Friends of OSBI, Inc. have not entered into any written agreements or established any policies to define the relationship between the two entities.

Ordinarily, when evaluating the relationship between a government agency and an outside organization, we review a contract, an agreement, or some form of policies and procedures to determine what the contractual obligation of each entity should be.

When no such documentation exists, it cannot be determined what the responsibilities of each organization are, or the level of accountability relevant to each party.

Officials with the OSBI and the Friends of OSBI, Inc. confirmed that no written contracts or agreements exist between the entities.

The lack of a written agreement between the OSBI and the Friends of OSBI, Inc. allows the activities as defined subsequently in this report to exist outside the oversight of management and exposes the Bureau to possible inappropriate use of state resources.

Finding 2

A principal purpose of our investigation, as defined in the engagement letter, was the review of the utilization of alternative funding sources for OSBI functions, primarily the OSBI Employees Awards Banquet.

The Board of the Friends of OSBI, Inc., along with their legal counsel, asserted that the records of the organization are private communications and thus not subject to examination by the State Auditor and Inspector's office. We do not agree with this position.

As such, we were not given access to the financial records of the Friends of OSBI, Inc. As a result, we could not ascertain the extent of the assistance provided the OSBI through Friends, or whether the manner and means in which assistance was provided, was appropriate under the law.

In the process of requesting the financial records of Friends, we received the following email response from Jessica Brown, the OSBI Public Information Officer. This communication discloses that the information requested by our office was at some point in the possession of this OSBI employee in the course of her OSBI duties.

OKLAHOMA STATE BUREAU OF INVESTIGATION
SPECIAL AUDIT REPORT
RELEASE DATE – MARCH 28, 2013

I have gathered the information you requested yesterday. However, the attorney (also a board member) for Friends of OSBI wants to handle the distribution of that material. Her name is Debbie Self. I have given her your contact information. I do, however, have for you my job description which does state that approximately 10% of my time as the PIO is spent on Friends of OSBI business. I have made a copy for you, and it is at the front desk at OSBI headquarters.

We later received the following email from the Friends of OSBI, Inc. legal counsel Debbie Self, which reads in part:

I understand that you have requested copies of certain documents pertaining to the organization. We would like to be as cooperative as possible, however, because we are a private charity, we also have certain obligations to protect the integrity and privacy of the organization, its members and supporters.

Before releasing information to you, please advise as to whether the State of Oklahoma will be amenable to entering into a confidentiality agreement with Friends of OSBI. Also, who is authorized to enter into a binding confidentiality agreement on behalf of the State of Oklahoma and the Office of the State Auditor and Inspector?

In response to this email, we clarify that records related to our investigations and/or audits are subject to the Open Records Act¹. Therefore, the State Auditor and Inspector's Office does not engage in confidentiality agreements.

We acknowledge that the Friends of OSBI, Inc. is a private, non-profit organization and the financial records and other related management information of a non-profit organization would not customarily be subject to review by the State Auditor and Inspector.

However, when a full-time employee of the State of Oklahoma maintains possession of such records in the course of their duties, and at least 10% of that employee's state funded employment is applied to the fundraising and financial management of the non-profit organization in question, the non-profit's mailing address on its IRS Form 990EZ tax return is the OSBI headquarters, and the OSBI computer network is utilized for posting and management of a fundraising auction on behalf of the non-profit, it is inferred that the activities of that non-profit organization are then subject to oversight by the State of Oklahoma, and as such to the State Auditor and Inspector.

¹ Oklahoma State Statutes 51 O.S. § 24A.1.

Finding 3

In the course of our investigation, it was determined that two OSBI employees serve as officers for the Friends of OSBI, Inc. Through these positions it was determined that State resources, including employee time and use of the OSBI computer network, were employed in raising funds for the Friends of OSBI, Inc.

Under Article 10 Section 15 of the Constitution of the State of Oklahoma, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, association, or political subdivision of the State, nor shall the State make donation by gift, or otherwise, to any company, association, or corporation.

An assessment of the duties performed while carrying out these responsibilities follows.

OSBI Public Information Director

The OSBI utilizes a Position Analysis Questionnaire (PAQ) to obtain clear, accurate, and detailed information in the analysis of positions in the agency as they relate to specific job duties and responsibilities of its employees.

The PAQ completed in June 2011, by Jessica Brown, the OSBI Public Information Director, revealed that Brown spends 10% of her time as an employee of the State performing duties associated with her position as President of Friends.

In the course of an interview, Brown acknowledged that she was the primary fundraiser for Friends and that 90-95% of her fundraising efforts were performed while fulfilling her official duties as an OSBI employee. She also confirmed that in raising 90-95% of the funds for Friends, her efforts did comprise approximately 10% of her work time as the OSBI Public Information Director.

Also in her PAQ, Brown indicated that she solicited donations from OSBI employees and from local merchants. These donated items were posted on an OSBI intranet “auction” page. Employees would be allowed to bid on the items for a week using the OSBI intranet. At the end of the week the employee with the highest bid would be awarded the item. The funds received as payment were then deposited by Brown into the Friends bank account and the deposit information communicated to Tammy Blakely, OSBI Accountant III, the Treasurer for Friends.

OSBI Accountant III

We obtained and reviewed the PAQ for Tammy Blakely, who is employed by OSBI as an Accountant III. Her duties related to the Friends organization were not reflected as part of her OSBI duties on the PAQ. Blakely also affirmed that her duties as treasurer of Friends are not acknowledged as part of her official OSBI duties.

According to Blakely she is an authorized signor on the Friends bank account. She does reconcile the bank statements for the Friends account, but asserts that all financial records related to Friends are on her personal computer, not on state computers. Blakely stated that she has spent very little time in her official position at OSBI on activities related to her duties as the treasurer of Friends.

Finding 4

An OSBI official solicited, collected, and deposited funds into an unofficial and unauthorized bank account belonging to a private non-profit organization.

According to **62 O.S. § 34.57 (B)**:

“It shall be the duty of each state agency, officer or employee, to deposit in the agency clearing account, or agency special account, established under Section 7.2 of this title, all monies of every kind including but not limited to....Income from money and property, grants and contracts, refunds, reimbursements, judgments, sales of materials and services of employees, and non revenue receipts, received by a state agency, officer or employee by reason of the existence of and/or operation of a state agency.”

As discussed previously, Jessica Brown, Public Information Officer for the OSBI, also serves as the President for the Friends of OSBI, Inc. The duties as President of Friends include, but are not limited to, fundraising with subsequent collections and deposits of those funds.

Brown affirmed that she did solicit, collect, and deposit donations for Friends as part of her official OSBI duties. Those funds were subsequently deposited by Brown into a bank account that was not maintained under the cover of the State of Oklahoma as required by statute.

OBJECTIVE II Review the relationship between Oklahoma State Bureau of Investigation and the “Oklahoma State Bureau of Investigation Employee’s Association,” a non-profit organization.

Background

The Oklahoma State Bureau of Investigation Employee’s Association (Association) was issued a Certificate of Incorporation on March 11, 1987.

The By-Laws of the Association define their purposes and objectives as follows:

- to foster, protect, and promote the welfare and interest of all members of the Oklahoma State Bureau of Investigation Employee’s Association;
- to organize to pay life insurance, legal representation and similar benefits to members or their dependents or their designated beneficiaries;
- to foster and encourage a higher degree of professionalism and efficiency, the cultivation of friendship among its members and the promotions of harmonious relations between the OSBI Association and the entire OSBI as well as any other law enforcement agency;
- to encourage and promote the constant improvement of public service rendered by the OSBI Employee’s Association.

Any full time employee of the Oklahoma State Bureau of Investigation shall be eligible for active membership in the Association, except those holding the position of Director, Deputy Director, Assistant Director, or the Chief Legal Counsel. Membership dues are \$60 per year, payable to the Association. There are currently less than 20 active Association members.

Finding 1 **The Oklahoma State Bureau of Investigation and the Oklahoma State Bureau of Investigation Employee's Association have not entered into any written agreements or established any policies to define the relationship between the two entities or the relationship of the Association with OSBI employees.**

As previously discussed when evaluating the relationship between a government agency and an outside organization, we review a contract, an agreement or some form of policies and procedures to determine what the contractual obligation of each entity should be.

When no such documentation exist, it cannot be determined what the responsibilities of each organization are, or the level of accountability relevant to each party.

The lack of a written agreement between the OSBI and the Association allows the activities as defined subsequently in this report, to exist outside the oversight of management and exposes the Bureau to possible inappropriate use of state resources.

Finding 2 **In our assessment of the financial management of the Oklahoma State Bureau of Investigation Employee's Association, it was determined that State resources were being used on behalf of the non-profit organization.**

As defined in the Constitution of the State of Oklahoma, Article 10 Section 15, the credit of the State shall not be given, pledged, or loaned to any individual, company, corporation, association, or political subdivision of the State, nor shall the State make donation by gift, or otherwise, to any company, association, or corporation.

Facilities and Equipment

According to Debbie Goodloe, the Association treasurer, the financial records for the Association are maintained on her state-owned computer.

It was also noted during the course of our investigation that the Association's bank statements, invoices, rental contracts, and other miscellaneous correspondence incorporated the mailing address of the OSBI headquarters. Purchases made were delivered to OSBI headquarters and most, if not all, of the Association's correspondence included the phone and fax numbers of the OSBI headquarters.

Time Reporting

The Association holds an annual fundraiser, “The Bureau Classic Golf Tournament.” The Association President stated that employees use annual leave for the time spent working on the golf tournament. We were provided a list of employees that had worked at the most recent golf tournament.

We obtained leave records for the week of the golf tournament for the employees and were able to confirm that the employees named had taken annual leave on the day of the tournament.

We also obtained the Position Analysis Questionnaires (PAQ) for Tommy Johnson, the President of the Association, and Debbie Goodloe, the Treasurer of the Association. The documented **official duties** of these OSBI employees did not include responsibilities related to the Association. Additionally, Goodloe, the Association treasurer, stated that all work for the Association is completed on her own time.

Conclusion

The Association’s financial records are maintained on a state-owned computer. In addition, although not documented in the PAQ’s or verified by officers of the Association, when mail is received, transactions are performed and communications are managed through the OSBI workplace, it gives the appearance that the administration of the Association is being completed on state time and with state resources.

Finding 3

A principal purpose of our limited review, as defined in our engagement letter, was the review of the utilization of alternative funding sources for OSBI functions, primarily the OSBI Employees Awards Banquet.

Our review of the Oklahoma State Bureau of Investigation Employee’s Association bank statements, deposits, checks and other related supporting documentation revealed no indication that the Association had assisted in the funding of the OSBI Employees Awards Banquet.

Finding 4

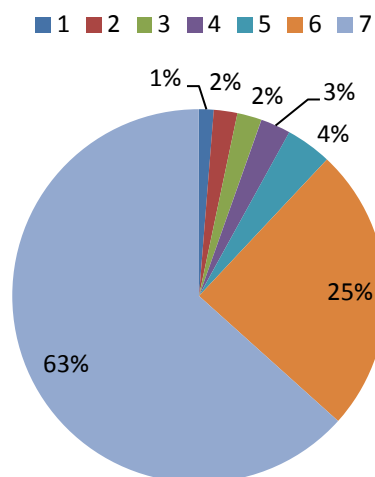
Some OSBI Employee's Association expenses incurred during the period reviewed could be considered as "pecuniary gain" and as such prohibited by Article XVI of the Association's Constitution and By-Laws and 18 O.S. § 1006 (7)(a).

During our review, we became aware of Association expense activity that has the potential to affect the image of the OSBI and its relationship with its employees and the public in general. We specifically noted the following:

- The two primary expense categories of the Association were fundraising cost for the Bureau Classic Golf Tournament and payments on a cruise for eleven Association members. These costs amount to 88% of Association expenses.
- As a result, there may have been some personal benefits accrue to Association members that could require reporting to appropriate federal and state taxing authorities.
- The membership of the Employee's Association includes fewer than 7% of the total OSBI authorized FTE positions.

**Analysis of OSBI Employee's Association Expenses
August 2011 – September 2012**

1. Charitable Donation¹	\$240.00
2. Food²	\$386.35
3. Entertainment³	\$403.00
4. Benevolence	\$492.02
5. Other⁴	\$752.47
6. Fundraiser/Golf Tournament	\$4,680.21
7. Member Cruise⁶	<u>\$12,012.75</u>
Total Expenses	<u>\$18,966.80</u>



¹Donation to American Cancer Society

²Lunch for meetings

³Redhawks baseball tickets and Warren Theatre movie tickets

⁴Bank fees, U-Haul storage and supplies

⁵Employee paid portion of cruise was \$2,013.75, so the actual cost to the Association was \$9,999

OKLAHOMA STATE BUREAU OF INVESTIGATION
SPECIAL AUDIT REPORT
RELEASE DATE – MARCH 28, 2013

Recommendation We recommend that all functions within the Bureau associated with non-profit organizations and their related activities be ceased pending official review by management. The Bureau should also consider executing a 'Memorandum of Agreement' or some equivalent documented understanding as to its on-going relationship between the aforementioned non-profit organizations and the OSBI.

We further recommend that official policies be issued defining OSBI's stance on employee associations and any related employee involved activities; ensuring that such policies are in compliance with statute and maintain the integrity of the OSBI's purpose and mission.

DISCLAIMER In this report there may be references to state statutes and legal authorities which appear to be potentially relevant to the issues reviewed by this Office. The State Auditor and Inspector has no jurisdiction, authority, purpose, or intent by the issuance of this report to determine the guilt, innocence, culpability, or liability, if any, of any person or entity for any act, omission, or transaction reviewed. Such determinations are within the exclusive jurisdiction of regulatory, law enforcement, and judicial authorities designated by law.

OKLAHOMA STATE BUREAU OF INVESTIGATION
SPECIAL AUDIT REPORT
RELEASE DATE – MARCH 28, 2013

APPENDIX

Management Response



OKLAHOMA STATE BUREAU OF INVESTIGATION

Professionals in Oklahoma Law Enforcement Since 1925

STAN FLORENCE
Director

CHARLES D. CURTIS
Deputy Director

March 25, 2013

Gary A. Jones, Oklahoma State Auditor & Inspector
2300 N. Lincoln Blvd.
State Capitol, Room 100
Oklahoma City, Oklahoma 73105



Dear Mr. Jones,

The Oklahoma State Bureau of Investigation (OSBI) requested your office conduct an inquiry related to the interaction between the OSBI, the OSBI Employees' Association, and/or the Friends of OSBI, Inc. This request was made on March 12, 2012. Recently, OSBI discussed the proposed findings with your office and we wanted to take this opportunity to express the changes OSBI has implemented since the request for an inquiry was made.

In March, 2012, OSBI employees germane to this issue were notified that no employee shall use OSBI resources to engage in business for the OSBI Employees' Association or the Friends of OSBI, Inc. Specifically, the OSBI advised the following:

1. No employee shall use an OSBI PC or network to conduct business of the OSBI Employees' Association or Friends of OSBI, Inc.,
2. No employee shall utilize OSBI office space for the storage/promotion of OSBI Employees' Association or Friends of OSBI, Inc., and
3. No employee shall conduct business for the OSBI Employees' Association or Friends of OSBI, Inc. during the hours they are being compensated as an OSBI employee.

Since March, 2012, OSBI Administration has not been made aware of any employees using OSBI resources to engage in business for the OSBI Employees' Association or Friends of OSBI, Inc. and the OSBI will continue to enforce these guidelines. Moreover, the OSBI has drafted and will be executing Memorandums of Understanding between the OSBI, the OSBI Employees' Association, and the Friends of OSBI, Inc. These Memorandums will document understanding as to the on-going relationship between the OSBI and these groups.

OKLAHOMA STATE BUREAU OF INVESTIGATION
SPECIAL AUDIT REPORT
RELEASE DATE – MARCH 28, 2013

Management Response - continued

The mission of the OSBI is to insure the safety and security of the citizens of Oklahoma and we take great pride in the services we provide to Oklahomans. As such, OSBI is constantly seeking ways to improve these services. The inquiry conducted by your office will assist the OSBI in improving these services. We want to thank you for your time and attention to this matter.

Respectfully,



Stan Florence
Director



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