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S. 942

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OCTOBER 8, 2009

Referred to the Committee on Oversight and Government Reform, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

AN ACT

To prevent abuse of Government charge cards.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Government Charge
3 Card Abuse Prevention Act of 2009”.

4 **SEC. 2. MANAGEMENT OF PURCHASE CARDS.**

5 (a) **REQUIRED SAFEGUARDS AND INTERNAL CON-**
6 **TROLS.**—The head of each executive agency that issues
7 and uses purchase cards and convenience checks shall es-
8 tablish and maintain safeguards and internal controls to
9 ensure the following:

10 (1) There is a record in each executive agency
11 of each holder of a purchase card issued by the
12 agency for official use, annotated with the limita-
13 tions on single transactions and total transactions
14 that are applicable to the use of each such card or
15 check by that purchase cardholder.

16 (2) Each purchase cardholder and individual
17 issued a convenience check is assigned an approving
18 official other than the cardholder with the authority
19 to approve or disapprove transactions.

20 (3) The holder of a purchase card and each of-
21 ficial with authority to authorize expenditures
22 charged to the purchase card are responsible for—

23 (A) reconciling the charges appearing on
24 each statement of account for that purchase
25 card with receipts and other supporting docu-
26 mentation; and

1 (B) forwarding such reconciliation to the
2 certifying official in a timely manner to enable
3 the certifying official to ensure that the Federal
4 Government ultimately pays only for valid
5 charges.

6 (4) Any disputed purchase card charge, and
7 any discrepancy between a receipt and other sup-
8 porting documentation and the purchase card state-
9 ment of account, is resolved in the manner pre-
10 scribed in the applicable governmentwide purchase
11 card contract entered into by the Administrator of
12 General Services and in accordance with all laws and
13 executive agency regulations.

14 (5) Payments on purchase card accounts are
15 made promptly within prescribed deadlines to avoid
16 interest penalties.

17 (6) Rebates and refunds based on prompt pay-
18 ment, sales volume, or other actions by the agency
19 on purchase card accounts are reviewed for accuracy
20 and properly recorded as a receipt to the agency
21 that pays the monthly bill.

22 (7) Records of each purchase card transaction
23 (including records on associated contracts, reports,
24 accounts, and invoices) are retained in accordance

1 with standard Government policies on the disposition
2 of records.

3 (8) Periodic reviews are performed to determine
4 whether each purchase cardholder has a need for the
5 purchase card.

6 (9) Appropriate training regarding the proper
7 use of purchase cards is provided to each purchase
8 cardholder in advance of being issued a purchase
9 card and periodically thereafter and to each official
10 with responsibility for overseeing the use of purchase
11 cards issued by an executive agency in advance of
12 assuming such oversight duties and periodically
13 thereafter.

14 (10) The executive agency has specific policies
15 regarding the number of purchase cards issued by
16 various component organizations and categories of
17 component organizations, the credit limits author-
18 ized for various categories of cardholders, and cat-
19 egories of employees eligible to be issued purchase
20 cards, and that those policies are designed to mini-
21 mize the financial risk to the Federal Government of
22 the issuance of the purchase cards and to ensure the
23 integrity of purchase cardholders.

1 (11) The executive agency utilizes effective sys-
2 tems, techniques, and technologies to prevent or
3 identify fraudulent purchases.

4 (12) The executive agency invalidates the pur-
5 chase card of each employee who—

6 (A) ceases to be employed by the agency,
7 immediately upon termination of the employ-
8 ment of the employee; or

9 (B) transfers to another unit of the agency
10 immediately upon the transfer of the employee
11 unless the agency determines that the units are
12 covered by the same purchase card authority.

13 (13) The executive agency takes steps to re-
14 cover the cost of any erroneous, improper, or illegal
15 purchase made with a purchase card or convenience
16 check by an employee, including, as necessary,
17 through salary offsets.

18 (b) GUIDANCE ON MANAGEMENT OF PURCHASE
19 CARDS.—Not later than 180 days after the date of the
20 enactment of this Act, the Director of the Office of Man-
21 agement and Budget shall review the existing guidance
22 and, as necessary, prescribe additional guidance governing
23 the implementation of the safeguards and internal controls
24 required by subsection (a) by executive agencies.

25 (c) PENALTIES FOR VIOLATIONS.—

1 (1) IN GENERAL.—The head of each executive
2 agency shall provide for appropriate adverse per-
3 sonnel actions or other punishment to be imposed in
4 cases in which employees of the agency violate agen-
5 cy policies implementing the guidance required by
6 subsection (b) or make improper, erroneous, or ille-
7 gal purchases with purchase cards or convenience
8 checks.

9 (2) DISMISSAL.—Penalties prescribed for em-
10 ployee misuse of purchase cards or convenience
11 checks shall include dismissal of the employee, as
12 appropriate.

13 (3) REPORTS ON VIOLATIONS.—The guidance
14 prescribed under subsection (b) shall direct each
15 head of an executive agency with more than
16 \$10,000,000 in purchase card spending annually,
17 and each Inspector General of such an executive
18 agency on a semiannual basis, to submit to the Di-
19 rector of the Office of Management and Budget a
20 joint report on violations or other actions covered by
21 paragraph (1) by employees of such executive agen-
22 cy. At a minimum, the report shall set forth the fol-
23 lowing:

24 (A) A description of each violation.

1 (B) A description of any adverse personnel
2 action, punishment, other action taken against
3 the employee for such violation.

4 (d) RISK ASSESSMENTS AND AUDITS.—The Inspec-
5 tor General of each executive agency shall—

6 (1) conduct periodic assessments of the agency
7 purchase card or convenience check programs to
8 identify and analyze risks of illegal, improper, or er-
9 roneous purchases and payments in order to develop
10 a plan for using such risk assessments to determine
11 the scope, frequency, and number of periodic audits
12 of purchase card or convenience check transactions;

13 (2) perform analysis or audits as necessary, of
14 purchase card transactions designed to identify—

15 (A) potentially illegal, improper, erroneous,
16 and abusive uses of purchase cards;

17 (B) any patterns of such uses; and

18 (C) categories of purchases that could be
19 made by means other than purchase cards in
20 order to better aggregate purchases and obtain
21 lower prices (excluding transactions made under
22 card-based strategic sourcing arrangements);

23 (3) report to the head of the executive agency
24 concerned on the results of such analysis or audits;
25 and

1 (4) report to the Director of the Office of Man-
 2 agement and Budget on the implementation of rec-
 3 ommendations made to the head of the executive
 4 agency to address findings of any analysis or audit
 5 of purchase card and convenience check transactions
 6 or programs for compilation and transmission by the
 7 Director to Congress and the Comptroller General.

8 (e) DEFINITION OF EXECUTIVE AGENCY.—In this
 9 section, the term “executive agency” has the meaning
 10 given such term in section 4(1) of the Office of Federal
 11 Procurement Policy Act (41 U.S.C. 403(1)), except as
 12 provided under subsection (f)(1).

13 (f) RELATIONSHIP TO DEPARTMENT OF DEFENSE
 14 PURCHASE CARD REGULATIONS.—

15 (1) IN GENERAL.—The requirements of sub-
 16 sections (a) through (d) shall not apply to the De-
 17 partment of Defense.

18 (2) CONFORMING AMENDMENTS.—Section 2784
 19 of title 10, United States Code, is amended—

20 (A) in subsection (b), by adding at the end
 21 the following new paragraphs:

22 “(11) That each purchase cardholder and indi-
 23 vidual issued a convenience check is assigned an ap-
 24 proving official other than the cardholder with the
 25 authority to approve or disapprove transactions.

1 “(12) That the Department of Defense utilizes
2 effective systems, techniques, and technologies to
3 prevent or identify fraudulent purchases.

4 “(13) That the Department of Defense takes
5 appropriate steps to invalidate the purchase card of
6 each employee who—

7 “(A) ceases to be employed by the Depart-
8 ment of Defense, immediately upon termination
9 of the employment of the employee; or

10 “(B) transfers to another unit of the De-
11 partment of Defense immediately upon the
12 transfer of the employee unless the Secretary of
13 Defense determines that the units are covered
14 by the same purchase card authority.

15 “(14) That the Department of Defense takes
16 appropriate steps to recover the cost of any erro-
17 neous, improper, or illegal purchase made with a
18 purchase card or convenience check by an employee,
19 including, as necessary, through salary offsets.

20 “(15) That the Inspector General of the De-
21 partment of Defense conducts periodic assessments
22 of purchase card or convenience check programs to
23 identify and analyze risks of illegal, improper, or er-
24 roneous purchases and payments and uses such risk

1 assessments to develop appropriate recommendations
 2 for corrective actions.”; and

3 (B) by adding at the end the following new
 4 subsection:

5 “(d) SEMIANNUAL REPORT.—The Secretary of De-
 6 fense and the Inspector General of the Department of De-
 7 fense, shall submit to the Director of the Office of Man-
 8 agement and Budget on a semiannual basis a joint report
 9 on illegal, improper, or erroneous purchases and payments
 10 made with purchase cards or convenience checks by em-
 11 ployees of the Department of Defense. At a minimum, the
 12 report shall include the following:

13 “(1) A description of each violation.

14 “(2) A description of any adverse personnel ac-
 15 tion, punishment, or other action taken against the
 16 employee for such violation.

17 “(3) A description of actions taken by the De-
 18 partment of Defense to address recommendations
 19 made to address findings arising out of risk assess-
 20 ments and audits conducted pursuant to this sec-
 21 tion.”.

22 **SEC. 3. MANAGEMENT OF TRAVEL CARDS.**

23 Section 2 of the Travel and Transportation Reform
 24 Act of 1998 (Public Law 105–264; 5 U.S.C. 5701 note)

1 is amended by adding at the end the following new sub-
2 section:

3 “(h) MANAGEMENT OF TRAVEL CHARGE CARDS.—

4 “(1) REQUIRED SAFEGUARDS AND INTERNAL
5 CONTROLS.—The head of each executive agency that
6 has employees that use travel charge cards shall es-
7 tablish and maintain the following internal control
8 activities to ensure the proper, efficient, and effec-
9 tive use of such travel charge cards:

10 “(A) There is a record in each executive
11 agency of each holder of a travel charge card
12 issued on behalf of the agency for official use,
13 annotated with the limitations on amounts that
14 are applicable to the use of each such card by
15 that travel charge cardholder.

16 “(B) Rebates and refunds based on
17 prompt payment, sales volume, or other actions
18 by the agency on travel charge card accounts
19 are monitored for accuracy and properly re-
20 corded as a receipt of the agency that employs
21 the cardholder.

22 “(C) Periodic reviews are performed to de-
23 termine whether each travel charge cardholder
24 has a need for the travel charge card.

1 “(D) Appropriate training is provided to
2 each travel charge cardholder and each official
3 with responsibility for overseeing the use of
4 travel charge cards issued by an executive agen-
5 cy.

6 “(E) Each executive agency has specific
7 policies regarding the number of travel charge
8 cards issued for various component organiza-
9 tions and categories of component organiza-
10 tions, the credit limits authorized for various
11 categories of cardholders, and categories of em-
12 ployees eligible to be issued travel charge cards,
13 and designs those policies to minimize the fi-
14 nancial risk to the Federal Government of the
15 issuance of the travel charge cards and to en-
16 sure the integrity of travel charge cardholders.

17 “(F) Each executive agency ensures its
18 contractual arrangement with each servicing
19 travel charge card issuing contractor contains a
20 requirement to evaluate the creditworthiness of
21 an individual before issuing that individual a
22 travel charge card, and that no individual be
23 issued a travel charge card if that individual is
24 found not creditworthy as a result of the eval-
25 uation (except that this paragraph shall not

1 preclude issuance of a restricted use travel
2 charge card or pre-paid card when the indi-
3 vidual lacks a credit history or has a credit
4 score below the minimum credit score estab-
5 lished by the Office of Management and Budg-
6 et). The Director of the Office of Management
7 and Budget shall establish a minimum credit
8 score for determining the creditworthiness of an
9 individual based on rigorous statistical analysis
10 of the population of cardholders and historical
11 behaviors. Notwithstanding any other provision
12 of law, such evaluation shall include an assess-
13 ment of an individual's consumer report from a
14 consumer reporting agency as those terms are
15 defined in section 603 of the Fair Credit Re-
16 porting Act.

17 “(G) Each executive agency utilizes effec-
18 tive systems, techniques, and technologies to
19 prevent or identify improper purchases.

20 “(H) Each executive agency ensures that
21 the travel charge card of each employee who
22 ceases to be employed by the agency is invali-
23 dated immediately upon termination of the em-
24 ployment of the employee.

1 “(I) Each executive agency utilizes, where
2 appropriate, direct payment to the holder of the
3 travel card contract.

4 “(2) GUIDANCE ON MANAGEMENT OF TRAVEL
5 CHARGE CARDS.—Not later than 180 days after the
6 date of the enactment of this Act, the Director of
7 the Office of Management and Budget shall review
8 the existing guidance and, as necessary, prescribe
9 additional guidance for executive agencies governing
10 the implementation of the requirements in para-
11 graph (1).

12 “(3) PENALTIES FOR VIOLATIONS.—

13 “(A) IN GENERAL.—Consistent with the
14 guidance prescribed under paragraph (2), each
15 executive agency shall provide for appropriate
16 adverse personnel actions to be imposed in
17 cases in which employees of the executive agen-
18 cy fail to comply with applicable travel charge
19 card terms and conditions or applicable agency
20 regulations or commit fraud with respect to a
21 travel charge card, including removal in appro-
22 priate cases.

23 “(B) REPORTS ON VIOLATIONS.—The
24 guidance prescribed under paragraph (2) shall
25 require each head of an executive agency with

1 more than \$10,000,000 in travel card spending
2 annually, and each inspector general of such an
3 executive agency, on a semiannual basis, to sub-
4 mit to the Director of the Office of Manage-
5 ment and Budget a joint report on violations or
6 other actions covered by subparagraph (A) by
7 employees of such executive agency. At a min-
8 imum, the report shall set forth the following:

9 “(i) A description of each violation.

10 “(ii) A description of any adverse per-
11 sonnel action, punishment, or other action
12 taken against the employee for such viola-
13 tion or other action.

14 “(4) RISK ASSESSMENTS AND AUDITS.—The in-
15 spector general of each executive agency shall—

16 “(A) conduct periodic assessments of the
17 agency travel charge card program and associ-
18 ated internal controls to identify and analyze
19 risks of illegal, improper, or erroneous travel
20 charges and payments in order to develop a
21 plan for using such risk assessments to deter-
22 mine the scope, frequency, and number of peri-
23 odic audits of travel charge card transactions;

24 “(B) perform periodic analysis and audits,
25 as appropriate, of travel charge card trans-

1 actions designed to identify potentially im-
2 proper, erroneous, and illegal uses of travel
3 charge cards;

4 “(C) report to the head of the executive
5 agency concerned on the results of such anal-
6 ysis and audits; and

7 “(D) report to the Director of the Office of
8 Management and Budget on the implementa-
9 tion of recommendations made to the head of
10 the executive agency to address findings of any
11 analysis or audit of travel charge card trans-
12 actions or programs for compilation and trans-
13 mission by the Director to Congress and the
14 Comptroller General.

15 “(5) DEFINITIONS.—In this subsection:

16 “(A) The term ‘executive agency’ means an
17 agency as that term is defined in subpara-
18 graphs (A) and (B) of section 5701(1) of title
19 5, United States Code.

20 “(B) The term ‘travel charge card’ means
21 any Federal contractor-issued travel charge
22 card that is individually billed to each card-
23 holder.”.

1 **SEC. 4. MANAGEMENT OF CENTRALLY BILLED ACCOUNTS.**

2 (a) **REQUIRED INTERNAL CONTROLS FOR CEN-**
3 **TRALLY BILLED ACCOUNTS.**—The head of an executive
4 agency that has employees who use a travel charge card
5 that is billed directly to the United States Government
6 shall establish and maintain the following internal control
7 activities:

8 (1) Items submitted on an employee's travel
9 voucher shall be compared with items paid for using
10 a centrally billed account on any related travel to en-
11 sure that an employee is not reimbursed for an item
12 already paid for by the United States Government
13 through a centrally billed account.

14 (2) The executive agency shall dispute unallow-
15 able and erroneous charges and track the status of
16 the disputed transactions to ensure appropriate reso-
17 lution.

18 (3) The executive agency shall submit requests
19 to servicing airlines for refunds of fully or partially
20 unused tickets, when entitled to such refunds, and
21 track the status of unused tickets to ensure appro-
22 priate resolution.

23 (b) **GUIDANCE.**—Not later than 180 days after the
24 date of the enactment of this Act, the Director of the Of-
25 fice of Management and Budget shall review the existing
26 guidance and, as necessary, prescribe additional guidance

Nothing in this Act shall be construed to excuse the head of an executive agency from the responsibilities set out in section 3512 of title 31, United States Code, or in the Improper Payments Act of 2002 (31 U.S.C. 3321 note).

Attest: NANCY ERICKSON,
Secretary.