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111TH CONGRESS
1ST SESSION

H. R. 2189

To prevent abuse of Government charge cards.

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2009

Mr. WILSON of South Carolina (for himself and Mr. ELLSWORTH) introduced the following bill; which was 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

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A BILL

To prevent abuse of Government charge cards.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Charge Card Abuse Prevention Act of 2009''.

SEC. 2. MANAGEMENT OF PURCHASE CARDS.

(a) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—The head of each executive agency that issues and uses purchase cards and convenience checks shall es-

tablish and maintain safeguards and internal controls to ensure the following:

(1) There is a record in each executive agency of each holder of a purchase card issued by the agency for official use, annotated with the limitations on single transactions and total transactions that are applicable to the use of each such card or check by that purchase cardholder.

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

(3) The holder of a purchase card and each official with authority to authorize expenditures charged to the purchase card are responsible for—

(A) reconciling the charges appearing on each statement of account for that purchase card with receipts and other supporting documentation; and

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

(4) Any disputed purchase card charge, and any discrepancy between a receipt and other supporting documentation and the purchase card statement of account, is resolved in the manner prescribed in the applicable governmentwide purchase card contract entered into by the Administrator of General Services and in accordance with all laws and executive agency regulations.

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

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

(7) Records of each purchase card transaction (including records on associated contracts, reports, accounts, and invoices) are retained in accordance with standard Government policies on the disposition of records.

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

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

(10) The executive agency has specific policies regarding the number of purchase cards issued by various component organizations and categories of component organizations, the credit limits authorized for various categories of cardholders, and categories of employees eligible to be issued purchase cards, and that those policies are designed to minimize the financial risk to the Federal Government of the issuance of the purchase cards and to ensure the integrity of purchase cardholders.

(11) The executive agency utilizes effective systems, techniques, and technologies to prevent or identify fraudulent purchases.

(12) The executive agency invalidates the purchase card of each employee who—

(A) ceases to be employed by the agency, immediately upon termination of the employment of the employee; or

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

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

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

(c) PENALTIES FOR VIOLATIONS.—

(1) IN GENERAL.—The head of each executive agency shall provide for appropriate adverse personnel actions or other punishment to be imposed in cases in which employees of the agency violate agency policies implementing the guidance required by

subsection (b) or make improper, erroneous, or illegal purchases with purchase cards or convenience checks.

(2) DISMISSAL.—Penalties prescribed for employee misuse of purchase cards or convenience checks shall include dismissal of the employee, as appropriate.

(3) REPORTS ON VIOLATIONS.—The guidance prescribed under subsection (b) shall direct each head of an executive agency with more than $10,000,000 in purchase card spending annually, and each Inspector General of such an executive agency on a semiannual basis, to submit to the Director of the Office of Management and Budget a joint report on violations or other actions covered by paragraph (1) by employees of such executive agency. At a minimum, the report shall set forth the following:

(A) A description of each violation.

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

(d) RISK ASSESSMENTS AND AUDITS.—The Inspector General of each executive agency shall—

(1) conduct periodic assessments of the agency purchase card or convenience check programs to identify and analyze risks of illegal, improper, or erroneous purchases and payments in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of purchase card or convenience check transactions;

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

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

(B) any patterns of such uses; and

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

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

(4) report to the Director of the Office of Management and Budget on the implementation of recommendations made to the head of the executive agency to address findings of any analysis or audit of purchase card and convenience check transactions

or programs for compilation and transmission by the Director to Congress and the Comptroller General.

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

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

(1) IN GENERAL.—The requirements of subsections (a) through (d) shall not apply to the Department of Defense.

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

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

''(11) That each purchase cardholder and individual issued a convenience check is assigned an approving official other than the cardholder with the authority to approve or disapprove transactions.

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

"(13) That the Department of Defense takes appropriate steps to invalidate the purchase card of each employee who—

"(A) ceases to be employed by the Department of Defense, immediately upon termination of the employment of the employee; or

"(B) transfers to another unit of the Department of Defense immediately upon the transfer of the employee unless the Secretary of Defense determines that the units are covered by the same purchase card authority.

"(14) That the Department of Defense takes appropriate steps to recover the cost of any erroneous, improper, or illegal purchase made with a purchase card or convenience check by an employee, including, as necessary, through salary offsets.

"(15) That the Inspector General of the Department of Defense conducts periodic assessments of purchase card or convenience check programs to identify and analyze risks of illegal, improper, or erroneous purchases and payments and uses such risk assessments to develop appropriate recommendations for corrective actions."; and

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

"(d) SEMIANNUAL REPORT.—The Secretary of Defense and the Inspector General of the Department of Defense shall submit to the Director of the Office of Management and Budget on a semiannual basis a joint report on illegal, improper, or erroneous purchases and payments made with purchase cards or convenience checks by employees of the Department of Defense. At a minimum, the report shall include the following:

"(1) A description of each violation.

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

"(3) A description of actions taken by the Department of Defense to address recommendations made to address findings arising out of risk assessments and audits conducted pursuant to this section.".

SEC. 3. MANAGEMENT OF TRAVEL CARDS.

Section 2 of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 5 U.S.C. 5701 note) is amended by adding at the end the following new subsection:

"(h) MANAGEMENT OF TRAVEL CHARGE CARDS.—

"(1) REQUIRED SAFEGUARDS AND INTERNAL CONTROLS.—The head of each executive agency that

has employees that use travel charge cards shall establish and maintain the following internal control activities to ensure the proper, efficient, and effective use of such travel charge cards:

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

"(B) Rebates and refunds based on prompt payment, sales volume, or other actions by the agency on travel charge card accounts are monitored for accuracy and properly recorded as a receipt of the agency that employs the cardholder.

"(C) Periodic reviews are performed to determine whether each travel charge cardholder has a need for the travel charge card.

"(D) Appropriate training is provided to each travel charge cardholder and each official with responsibility for overseeing the use of travel charge cards issued by an executive agency.

"(E) Each executive agency has specific policies regarding the number of travel charge cards issued for various component organizations and categories of component organizations, the credit limits authorized for various categories of cardholders, and categories of employees eligible to be issued travel charge cards, and designs those policies to minimize the financial risk to the Federal Government of the issuance of the travel charge cards and to ensure the integrity of travel charge cardholders.

"(F) Each executive agency ensures its contractual arrangement with each servicing travel charge card issuing contractor contains a requirement to evaluate the creditworthiness of an individual before issuing that individual a travel charge card, and that no individual be issued a travel charge card if that individual is found not creditworthy as a result of the evaluation (except that this paragraph shall not preclude issuance of a restricted use travel charge card or pre-paid card when the individual lacks a credit history or has a credit score below the minimum credit score established by the Office of Management and Budg-

et). The Director of the Office of Management and Budget shall establish a minimum credit score for determining the creditworthiness of an individual based on rigorous statistical analysis of the population of cardholders and historical behaviors. Notwithstanding any other provision of law, such evaluation shall include an assessment of an individual's consumer report from a consumer reporting agency as those terms are defined in section 603 of the Fair Credit Reporting Act.

"(G) Each executive agency utilizes effective systems, techniques, and technologies to prevent or identify improper purchases.

"(H) Each executive agency ensures that the travel charge card of each employee who ceases to be employed by the agency is invalidated immediately upon termination of the employment of the employee.

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

"(2) GUIDANCE ON MANAGEMENT OF TRAVEL CHARGE CARDS.—Not later than 180 days after the date of the enactment of this Act, the Director of

the Office of Management and Budget shall review the existing guidance and, as necessary, prescribe additional guidance for executive agencies governing the implementation of the requirements in paragraph (1).

"(3) PENALTIES FOR VIOLATIONS.—

"(A) IN GENERAL.—Consistent with the guidance prescribed under paragraph (2), each executive agency shall provide for appropriate adverse personnel actions to be imposed in cases in which employees of the executive agency fail to comply with applicable travel charge card terms and conditions or applicable agency regulations or commit fraud with respect to a travel charge card, including removal in appropriate cases.

"(B) REPORTS ON VIOLATIONS.—The guidance prescribed under paragraph (2) shall require each head of an executive agency with more than $10,000,000 in travel card spending annually, and each inspector general of such an executive agency, on a semiannual basis, to submit to the Director of the Office of Management and Budget a joint report on violations or other actions covered by subparagraph (A) by

employees of such executive agency. At a minimum, the report shall set forth the following:

"(i) A description of each violation.

"(ii) A description of any adverse personnel action, punishment, or other action taken against the employee for such violation or other action.

"(4) RISK ASSESSMENTS AND AUDITS.—The inspector general of each executive agency shall—

"(A) conduct periodic assessments of the agency travel charge card program and associated internal controls to identify and analyze risks of illegal, improper, or erroneous travel charges and payments in order to develop a plan for using such risk assessments to determine the scope, frequency, and number of periodic audits of travel charge card transactions;

"(B) perform periodic analysis and audits, as appropriate, of travel charge card transactions designed to identify potentially improper, erroneous, and illegal uses of travel charge cards;

"(C) report to the head of the executive agency concerned on the results of such analysis and audits; and

"(D) report to the Director of the Office of Management and Budget on the implementation of recommendations made to the head of the executive agency to address findings of any analysis or audit of travel charge card transactions or programs for compilation and transmission by the Director to Congress and the Comptroller General.

"(5) DEFINITIONS.—In this subsection:

"(A) The term 'executive agency' means an agency as that term is defined in subparagraphs (A) and (B) of section 5701(1) of title 5, United States Code.

"(B) The term 'travel charge card' means any Federal contractor-issued travel charge card that is individually billed to each cardholder.".

SEC. 4. MANAGEMENT OF CENTRALLY BILLED ACCOUNTS.

(a) REQUIRED INTERNAL CONTROLS FOR CENTRALLY BILLED ACCOUNTS.—The head of an executive agency that has employees who use a travel charge card that is billed directly to the United States Government shall establish and maintain the following internal control activities:

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

(2) The executive agency shall dispute unallowable and erroneous charges and track the status of the disputed transactions to ensure appropriate resolution.

(3) The executive agency shall submit requests to servicing airlines for refunds of fully or partially unused tickets, when entitled to such refunds, and track the status of unused tickets to ensure appropriate resolution.

(b) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall review the existing guidance and, as necessary, prescribe additional guidance for executive agencies implementing the requirements of subsection (a).

SEC. 5. CONSTRUCTION.

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

1 in the Improper Payments Act of 2002 (31 U.S.C. 3321
2 note).

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