

WMATA OFFICE OF INSPECTOR GENERAL

OFFICE OF INVESTIGATIONS

Report of Investigation

Complaint No.: 12-0001-1
(Improper Use of Purchase Card; Theft of WMATA Property)

Date: December 1, 2011

Allegation

On August 2, 2011, the Policy Supervisor/Purchase Card Administrator (PCA) of the Office of Procurement and Materials (PRMT), reported purchase card irregularities to the Office of Inspector General (OIG). During a routine review of transactions for purchase card holders in the [REDACTED], the PCA identified a number of purchases in [REDACTED] charged to the purchase card accounts of [REDACTED] and [REDACTED] which the PCA said were prohibited by WMATA's purchase card policy¹ (Exhibit 1). The charges identified by the PCA included, among other things, gift cards, gift items, camcorders, a digital photo album and a Kindle E-Reader.

The PCA also alleged that there was an attempt to cover up these unauthorized purchases with descriptions of legitimate items in the purchase card system which the cardholder enters. The PCA attached a report from the purchase card database showing that some of [REDACTED] questionable purchases were described as "toner cartridges" or "printer cartridges." Several of [REDACTED] card purchases reflected no description at all (Exhibit 2).

Background

WMATA participates in the Citibank Purchase Card program. Designated WMATA employees are authorized to obtain purchase cards, which enables them to make purchases with a WMATA credit card, generally up to a cap of \$3,000.² The purchases must be for official Metro business only. An approving official, who is the cardholder's supervisor or higher level official within the cardholder's department, reviews and approves cardholders' transaction activity on-line. Every cardholder and approving official must attend training on the proper use of the card before they are issued a card and/or granted access to the purchase card database. A WMATA Purchase Card holder Training Acknowledgement Form is to be signed by each cardholder, indicating they have been instructed on the proper use of the card and the card policy.

¹ The PCA cited Policy Instruction (P/I) 8.11/0 §10.07 (Unauthorized (Prohibited) Use of Card).

² Single transactions may be up to \$5,000, but sole-source purchases above \$3,000 require written justification and approval.

The WMATA purchase card policy, § 10.00 *Unauthorized (Prohibited) Use of Card* specifically prohibits the following purchases:

- o § 10.02 – Supplies or services for personal gain, pleasure, or enjoyment
- o § 10.06 – Meals, drinks or subsistence costs, except that there is an exception for "refreshments for official Metro functions, subject to appropriate approvals (§ 13.02(a) Exceptions)
- o § 10.07 – Entertainment, gift cards, luxury items, plants or foliage

[REDACTED] reports to [REDACTED] and [REDACTED] reported to [REDACTED]

Summary of Investigation

Luncheon

[REDACTED] held a lunch at a restaurant on [REDACTED]. The email invitation called the luncheon an "Annual [REDACTED] Recognition Event" (Exhibit 3).

[REDACTED] purchase card records reflect that [REDACTED] charged \$1,863.36 at the restaurant (Exhibit 4). The invoice shows that WMATA paid:

Food & beverage:	\$1452.00
Room Use Fee:	\$ 150.00
Gratuify (18 %)	\$ 261.36

Purchase card records (Exhibit 5) reflect that [REDACTED] and [REDACTED] purchased 71 items for a cost of \$2,795. The items were:

- 49 gift/merchandise cards
- 8 gift baskets
- 6 boxes of chocolates
- 4 cutting board sets

- 2 digital cameras/camcorders
- 1 Kindle eReader
- 1 digital photo album

During interviews both [redacted] and [redacted] each claimed to have purchased a Kindle for the lunch gift. In the three weeks before the lunch, [redacted] purchased one Kindle and [redacted] purchased three Kindles for a total of \$946.99. [redacted] also purchased a two-year insurance replacement plan (\$49.99) for a Kindle on [redacted] purchase card denied purchasing more than one Kindle, although three appear on [redacted] account records, and [redacted] offered no explanation for the other two. One PLJD employee acknowledged receiving a Kindle at the lunch, and the other Kindles are unaccounted for.

[redacted] purchase card records also show a total of \$427.80 charged at Safeway in [redacted] described [redacted] \$55 charge as "event supplies." [redacted] did not document any description for [redacted] charges totaling \$372.80, but [redacted] claimed [redacted] Safeway purchases were for supplies for the [redacted] lunch.

[redacted] attended the lunch and [redacted] said there were about 30 people there. [redacted] had no explanation as to why there were more gifts purchased (71) than the total number of [redacted] employees (30). According to [redacted] everyone in attendance who stayed received a gift. [redacted] said the gifts were numbered and individuals picked a number out of a bag to determine which gift they received. [redacted] said [redacted] did not recall who received gifts or how employees were selected to receive gifts. [redacted] said [redacted] recalled [redacted] handed out gifts.

[redacted] said there were some gift cards left over and the cards were given to the wait staff "in lieu of tips." This would have been in addition to the \$261.36 reflected on the restaurant invoice as an 18 percent gratuity.

[redacted] did not produce any list of attendees or gift recipients from the lunch in response to an OIG request. [redacted] said [redacted] would not make a list. OIG sent an email to [redacted] staff members listed in the WMATA telephone directory asking them to indicate whether they attended the [redacted] lunch and what, if any, gift they received. OIG received [redacted] responses. The responding employees claimed one Kindle, one camcorder, one digital photo album, 12 gift cards, and eight gift baskets, mugs, food or coffee items. The rest of the items are unaccounted for.

Camcorder Gift

[REDACTED]

Other Purchase Card Use by [REDACTED]

[REDACTED]

We reviewed [REDACTED] purchase card transactions over a 15-month period (May 18, 2010 – August 1, 2011) (Exhibit 6). In addition to the previously mentioned items, [REDACTED] purchased another Kindle on March 18, 2011 for \$139. [REDACTED] said [REDACTED] authorized the Kindle purchase, which [REDACTED] denied.

[REDACTED] was asked and gave the following explanations about [REDACTED] other card transactions:

Purchase	Date of Purchase	Price	Explanation
Edible Arrangements (Fruit)	6/3/10	\$47.00	Receipt indicated this was a birthday present for [REDACTED] employee.
Priceline.com -- car rental	6/12/10	\$69.67	Never rented a car; erroneous charge applied when [REDACTED] searched the Internet to compare vehicle rental prices. Priceline refused to refund the money.
Reading glasses	10/7/10	\$14.95	At Staples, [REDACTED] used the glasses to read something, and then put the glasses on the counter; the cashier rung them up in error. Made no attempt to return them to Staples.
Caruso Florist	11/15/10	\$87.95	A five-year anniversary gift plant for [REDACTED].
Safeway	12/22/10	\$372.80	No description entered. During an interview, [REDACTED] alleged this purchase was for additional supplies for the [REDACTED] luncheon.
SmarTrip Card	6/16/11 & 6/29/11	\$25.00 & \$55.00	Initially said that the card was for a summer intern; the second charge was for a replacement card for the first one, which was lost. Later said it was for a subcontractor employee.
Picnic Tote Bag	5/23/11	\$34.99	It was a gift from Staples that someone took

[REDACTED]

Nook Black Lyra Light	7/14/11	\$19.99	Purchased in error; made no attempt to return it.
Digital Frame	7/14/11	\$90.96	Retirement gift for an employee

██████████ claimed that both ██████████ and ██████████ often directed ██████████ to use ██████████ card to make purchases even after ██████████ told them that the purchases were in violation of the policy. ██████████ did not provide specific examples. ██████████ also said both of them took ██████████ card to make purchases. ██████████ denied both allegations. ██████████ said ██████████ did use the card on several occasions to register online for conferences and then ██████████ gave back the card with a receipt. ██████████ denied that ██████████ informed ██████████ any transactions were in violation of the purchase card policy.

The PCA reported ██████████ was sent an email listing the prohibited charges and asking for an explanation concerning the ██████████ charges. (Exhibit 7). ██████████ responded:

"The items were purchased for our departmental retreat/gathering welcoming ██████████ and leadership recognizing employees of the quarter and providing new goals and expectations moving forward which was a formal WMATA gathering. The items were given as rewards for responding to questions used as morale boosters/challenges as to what each department does and this was done as a 'grab bag' activity." This [sic] expenses weren't 'viewed' as 'entertainments, gifts or luxury items...'; but as recognition/thank you for work done by teams and individuals."

In a later email to OIG, ██████████ stated,

"I do realize that while going along to get along, the purchase card was poorly managed. Some things weren't questioned or reviewed, just allowed my card to be used. Still my obligation and responsibility. I will reimburse WMATA \$328.00 to cover the rental I didn't use; the flowers I didn't receive; and costs of Kindle and picnic tote."

We reviewed [REDACTED] purchases over a 15-month period (May 18, 2010 – August 1, 2011) (Exhibit 8). In addition, [REDACTED] was asked about the following purchases:

Purchase	Date of Purchase	Price	Explanation
[REDACTED]	1/25/11	\$271.99	Thought [REDACTED] purchased it via [REDACTED] personal Amazon.com account and not WMATA's account.
Two executive cases, American Express gift cards and fees, Visa gift card and fee.	1/4/11	\$346.83	None
Digital camcorder, video adapters, digital camera, replacement insurance for camcorder and camera.	3/7/11	\$449.94	Denied that [REDACTED] purchased any cameras.
Beats by Dr. Dre earbuds.	3/22/11	\$179.99	An employee in [REDACTED] requested them; could not remember which employee.
Three (3) digital camcorders	4/4/11	\$529.97	Did not purchase digital camcorders.
Unlocked Blackberry Torch cellphone	5/20/11	\$499.99	Purchased for a [REDACTED] employee; did not recall which one.
Six (6) American Express gift cards and fees.	6/30/11	\$635.70	Denied purchasing these gift cards.

Below are additional questionable purchases [REDACTED] made and the descriptions [REDACTED] entered for each item on the computer:

Edible Arrangements	9/24/10	\$60.83	Fruit for ill employee [REDACTED]
Giant Food	11/9/10 & 11/10/10	\$130.12	Shower supplies for [REDACTED]
Safeway	[REDACTED]	\$55.00	Event Supplies
Matchbox Pizza	2/28/11	\$97.00	Lunch Meeting – [REDACTED]
Tangy Sweet (Frozen Yogurt)	3/1/11	\$87.00	Lunch meeting – [REDACTED]
Safeway	5/20/11	\$505.95	[REDACTED] Surprise Celebration; and Regional Benefits Meeting Catering
Safeway	6/3/11	\$205.95	No description entered
Staples (Coffee Maker)	6/14/11	\$102.07	Office Supplies
Bed, Bath, and Beyond	6/17/11	\$291.85	[REDACTED] retirement gift/[REDACTED] event
Safeway	7/13/11	\$155.95	Retirement celebration
Bed, Bath, and Beyond	7/18/11	\$266.85	Retirement celebration
Safeway	7/28/11	\$211.93	No description entered

denied purchasing more than one Kindle, although purchase card account reflected three. also denied purchasing any digital camcorders, although purchase card records reflected three had been purchased. offered no explanation. said no one else used card. According to has no camcorders and it has two digital cameras purchased two and four years ago.

A color printer was observed in the living room of home during interview. It was identified as the same make and model as purchased by with the purchase card March 22, 2011 for \$99. explained purchased the printer for use at home, because sometimes did work at home. also purchased a warranty plan on the printer with the purchase card. said approved the purchase of the printer. denied giving permission to purchase a printer for home use. said forgot to return the printer upon resignation from WMATA. The printer was seized by the assigned OIG special agent.

denied any wrongdoing involving the purchase card but offered to reimburse WMATA.

Missing and False Expense Descriptions

Descriptions were missing for multiple purchase transactions made with purchase card including the charges for the luncheon, the flip camcorder and the gift cards.

Three earlier gift card purchases made with card have the expense description of "AGM printer cartridge." A Kindle, digital frame, reading glasses and a light have the description of "Office Supplies." said made a mistake in entering "AGM printer cartridge" as descriptions of the gift cards. said where there was no description, was in a hurry and did not have time to enter the expense description.

purchase card records reflects the description of "printer supplies" was used for nine gift card purchases, two executive cases, six cameras, a digital frame, and a card holder. For the unlocked Blackberry purchased in May 2011, entered "Office supplies - copier/scanner." There was no description for the purchased on January 25, 2011.

⁴ On November 23, 2011, the printer was returned to.

Purchase Card Approval Procedures in [REDACTED]

[REDACTED]

Referral for Prosecution

The evidence was presented to the United States Attorney's Office for the District of Columbia on October 19, 2011, for consideration for prosecution of [REDACTED] and [REDACTED] for theft under D.C. law. The office declined prosecution, explaining:

"We simply are not going to be able to prove this case beyond a reasonable doubt given the culture of purchase card abuse going on in that office by supervisors. [REDACTED] can say that [REDACTED] used the card or approved the purchases; and [REDACTED] and approved purchases that [REDACTED] shouldn't have. They all have something to hide so credibility is a real issue. The conduct by the supervisors and staff is outrageous. I hope that administrative action can be pursued."

Because some of [REDACTED] purchases were made at a store in Prince George's County, Maryland, that evidence was also discussed with the Prince George's County, Maryland State's Attorney's Office. That office declined prosecution of [REDACTED] stating their decision was because of poor internal controls and senior managers not performing their jobs correctly to prevent the purchase card misuse.

Actions Affecting [REDACTED] Purchase Card Use

[REDACTED] cardholder privileges were revoked on August 9, 2011 by the Purchase Card Administrator. [REDACTED] resigned in [REDACTED]. [REDACTED] remains an approving official. [REDACTED] advised that [REDACTED] held a meeting in August 2011 with affected staff and directed them to comply with the Purchase Card Policy. The PGA attended and answered questions. [REDACTED] sent an email to [REDACTED] staff on September 2, 2011 stating: "Anniversary, retirement, or any other individual personal celebratory events can NOT be funded with WMATA funds."

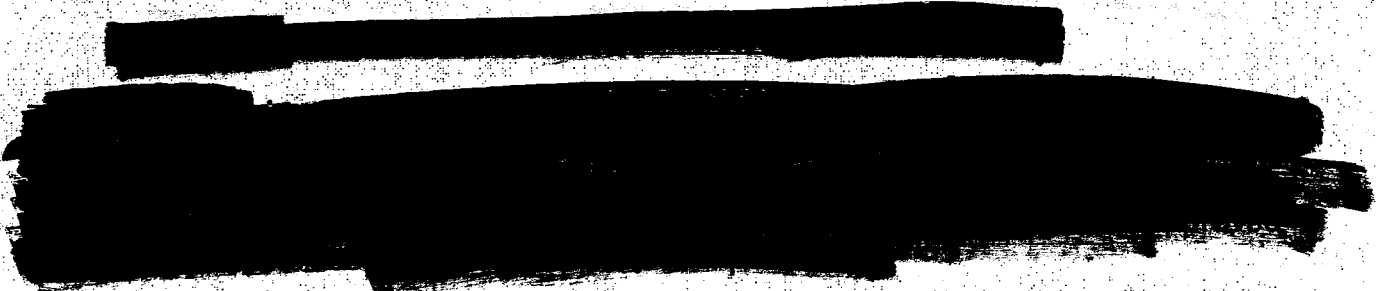
Relevant Statutes, Regulations, and Other Standards

- 1) Maryland Criminal Code § 7-104(a)(1), § 7-104(b)(1) – Theft;
- 2) D.C. Criminal Code § 22-3211(b) (1) – Theft.
- 3) WMATA P/I 7.10/5 Standards of Conduct – § 6.04 Prohibition of Contributions or Presents to Supervisory Personnel: WMATA personnel will not . . . accept a gift from other Authority personnel subordinate to themselves;
- 4) WMATA P/I 8.11/0 Purchase Card Policy:
 - § 5.03 – The Approving Official is required to review and approve Cardholder's card activity and supporting documentation to ensure and certify purchases were made in accordance with the purchase card policy and applicable Metro regulation. The Approving Official is further required to report in writing to the Purchase Card Administrator all cases of misuse of the card and initiate appropriate administrative and disciplinary actions for such violations by the cardholder. The Approving Official shall not delegate their authority.
 - § 7.03 – Cardholders and Approving Officials will receive formal training and a manual on Metro purchase card policy and procedures from the Purchase Card Administrator

- § 7.07 – Metro personnel shall use their purchase card for "official Metro business only"
- § 7.08 - Cardholder is liable for any unauthorized purchases/transactions
- § 10.00 Unauthorized (Prohibited) Use of Card –
 - § 10.02 – Supplies or services for personal gain, pleasure, or enjoyment
 - § 10.03 – Rental or lease of... buildings
 - § 10.04 - Wireless phones, except those purchased by the Office of Network and Communications (§ 13.01, Exceptions)
 - § 10.06 – Meals, drinks or subsistence costs, except that there is an exception for "refreshments for official Metro functions, subject to appropriate approvals" (§ 13.02(a), Exceptions)
 - § 10.07 – Entertainment, gift cards, luxury items, plants or foliage

OIG Investigative Findings

The OIG investigation revealed the following:



2. Luncheon

(a) Restaurant charges: [REDACTED] defended the restaurant charges to the [REDACTED] purchase card on the basis that it was for an office event to recognize all [REDACTED] staff. The policy prohibits use of the purchase card for meals, drinks, and entertainment (P/I 8.11, §10.05, §10.06), and it is reasonable to interpret those prohibitions to cover these restaurant charges. However, the policy also contains an exception to the meals and beverages prohibition for "refreshments for official Metro functions, subject to appropriate approval" (P/I 8.11, §13.02(a)). The refreshments exception does not cover the room charge and the tip. The room charge may also be prohibited as a building rental (P/I 8.11, §10.03).

(b) Gifts: Section 10 specifically prohibits card use for gift cards and luxury items. [REDACTED] authorized purchases because they were given out at an office staff recognition event. However, there is nothing in the Purchase Card Policy that allows such an exception for that purpose.

There is no WMATA policy or other regulation on non-cash, in-kind employee awards or gifts. There is a policy on cash awards (P/I 5.3). That policy contemplates awards to individuals based upon individual accomplishments within the categories spelled out there. At the [REDACTED] luncheon, there were no special or specific accomplishments for which the gifts were being awarded. The gifts employees got were arbitrary and bore no relation to any employee's accomplishments. Under these circumstances, the items distributed at the lunch were more in the nature of door prizes than employee recognition awards.

[REDACTED] stated reliance on the Standards of Conduct rule that prohibits acceptance of gratuities by employees, but allows them to accept a gratuity of less than \$25, is misplaced. The rule, P/I 7.10/5, § 6.02, applies to gifts from outside sources, not gifts funded with WMATA funds, according to [REDACTED] a principal drafter of the Standards of Conduct. [REDACTED] rejected the aggregate argument that the rule would allow an office to use WMATA funds to buy gifts for employees up to \$24 per employee per event.

3. Other restaurant and food establishment charges and grocery store purchases

[REDACTED] incurred other restaurant charges during the period we reviewed. These charges fall into the same category of prohibited purchase card charges for meals and drinks as the restaurant charges for the [REDACTED] luncheon, discussed above.

There were also significant grocery store charges claimed to be for office celebrations. These charges would only be permissible if covered by the "refreshment" exemption in the Purchase Card Policy, if "for an official Metro function." While this term is not defined, it is unlikely these office celebrations would fall into that category. It is a question as to whether they qualify as "official Metro business" under the Purchase Card Policy, paragraph 7.07.

4. Other gifts

[REDACTED] also purchased gifts said to be for various office celebrations or individual employee's presents. These charges are clearly prohibited by §10 of the Purchase Card Policy (the plant, luxury items, entertainment items) or were not for "official Metro business" under the Purchase Card Policy, paragraph 7.07.

[REDACTED]

[REDACTED]

[REDACTED]

6. Unaccounted-for and personal purchases by [REDACTED]

[REDACTED] purchase of the [REDACTED] \$271.99 is the clearest example of a personal purchase with WMATA funds. In addition, [REDACTED] and [REDACTED] both purchased items that cannot be accounted for, including four Kindles (\$946.99), three camcorders (\$729.94) a blackberry (\$499.99), Beats by Dr. Dre earbuds (\$179.99), and numerous gift cards (\$2053.95).

7. False entries in purchase card system

There were numerous (55) instances where [REDACTED] entered an inaccurate expense description into the purchase card system or no description at all. While [REDACTED] described this as a mistake or the result of haste, the number of times this occurred makes [REDACTED] explanation questionable. [REDACTED] also had numerous (34) instances. This is not consistent with the Purchase Card Policy (5.04 – cardholder responsibilities; 8.01(f) – documentation). The false or non-existent entries also give rise to an inference of wrongdoing and deception by [REDACTED]

Exhibits

1. The PCA's email allegation, dated August 2, 2011, attaching [REDACTED] email responses
2. Select purchase card transactions for [REDACTED]
3. [REDACTED] invite
4. Purchase card transactions for [REDACTED] reflecting Busboys & Poets charges
5. Select purchase card transactions for [REDACTED]
6. [REDACTED] purchase card transaction (May 18, 2010 – August 1, 2011)
7. The PCA's email to [REDACTED]
8. [REDACTED] purchase card transactions (May 18, 2010 – August 1, 2011)

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