



**U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL**

**ADVISORY MEMORANDUM
REPORT NO. 12-16**

DATE: August 6, 2012

To: Jonathan I. Carver, Chief Financial Officer
Paul T. Christy, Chief Operating Officer

SUBJECT: The Small Business Administration's Inappropriate Use of the Government Purchase Card for Construction Purchases

This advisory memorandum serves as a *Notice of Finding and Recommendation* related to an issue that we identified during our *Audit of the Small Business Administration's (SBA) Procurement Process used to Reconfigure Space for the Office of International Trade (OIT)*. While conducting our audit, we determined that SBA personnel with purchase card authority had inappropriately purchased \$34,044.77 in construction transactions at the SBA Washington, DC area offices. These transactions were over the \$2,000 threshold established by the Federal Acquisition Regulations (FAR) for construction purchases. We will issue a separate advisory memorandum that summarizes the results of our audit of whether the SBA complied with the FAR and SBA policy for the procurement of services to reconfigure OIT office space in SBA's headquarters.

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We appreciate the courtesies and cooperation of the SBA during this audit. If you have any questions concerning this report, please call me at (202) 205-7390 or Riccardo R. Buglisi, Director, Business Development Programs Group at (202) 205-7489.

John K. Needham
Assistant Inspector General for Auditing

The SBA Inappropriately Used the Government Purchase Card for Construction Purchases

BACKGROUND

The purchase card is the primary payment and procurement method for purchases, which do not exceed \$3,000 (often referred to as micro-purchases). However, the micro-purchase threshold for construction subject to the Davis-Bacon Act is \$2,000. Construction subject to the Davis-Bacon Act covers all federal contracts for work done on a particular building including but not limited to altering, remodeling, painting, and decorating.¹ As of April 2012, the Small Business Administration (SBA) has 176 purchase card holders within the General Services Administration (GSA) Smartpay® purchase card program.

As a part of day to day operations, the SBA requires regular construction activities on the Headquarters building as well as the offices in Herndon, Virginia. The needs range from wall construction, painting, electrical work, to cable television installation, and so forth. In the past, some of these needs were procured using a purchase order that allowed the selected contractor to perform the work on an “as needed” basis. However, the Office of the Inspector General (OIG) identified instances in which SBA personnel used the purchase card to procure these services. The purchase card is often used as a quick option for services under the micro-purchase threshold.

While conducting our audit of the procurement practices used to reconfigure office space for the Office of International Trade (OIT), we noted a transaction with Bristol Custom Construction Inc. to build an office space. In this instance, SBA personnel used a purchase card to procure services for \$2,984.00, which was over the established micro-purchase threshold. Upon noting the Bristol Custom Construction Inc. charge and interviewing SBA personnel, the OIG requested all purchase card statements with charges from Bristol Custom Construction Inc. from Fiscal Years (FY) 2011 and 2012. This report discusses the results of the audit of charges from Bristol Custom Construction Inc.

CONDITION

Several SBA personnel routinely used the purchase card to pay for recurring building maintenance work over the \$2,000 threshold established by the Federal Acquisition Regulation (FAR). During FY 2011 and FY 2012, SBA purchase cardholders, from various offices within the Washington, DC area, made 21 purchase card charges from Bristol Custom Construction Inc. or Ron Bristol totaling \$41,557.81. Of these transactions with Bristol Custom Construction Inc. or Ron Bristol, 12 charges for \$34,044.77 were over the \$2,000 threshold and were in violation of the FAR and SBA policy. An employee in the Office of Administrative Services was responsible for \$20,236.00 or 59 percent of the 12 inappropriate charges. Another five individuals within five SBA Offices in Headquarters and Herndon incurred the other \$13,808.77 or 41 percent of the inappropriate charges.

¹ According to Title 40 United States Code Section 3142 and Code of Federal Regulations, Title 29 Section 3.2.

CRITERIA

The SBA's Standard Operating Procedures (SOP) 00 12 2, *The Government Purchase Card Program*, dated June 28, 2007, states that the government purchase card program allows official government purchases under the micro-purchase threshold without a purchase order. The thresholds are defined as: \$3,000 for services, \$2,500 for supplies and \$2,000 for construction. According to the FAR, Section 2.101, the micro-purchase threshold is \$3,000 except for the acquisition of construction; subject to the Davis-Bacon Act,² that decreases the threshold to \$2,000. In addition, the Department of Labor has defined "construction" for the purposes of applying the Davis-Bacon Act as all work done on a particular building including, without limitation, altering, remodeling, painting, and decorating.³ The FAR, Section 2.101 also defines construction as "construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures or other real property."

CAUSE

The SBA did not provide sufficient training and did not maintain current delegation letters for all cardholders. Additionally, cardholders did not abide by the FAR or the SOP. In order to obtain and maintain a government purchase card, certain training classes are required. The OIG reviewed the training materials, to include GSA Smartpay Training® and SBA-developed training. We noted that none of the cardholder training detailed the lower \$2,000 limit for construction work—compared to the \$3,000 micro-purchase threshold—nor was the term "construction" defined in either training course with reference to the Davis-Bacon Act. When the cardholder completes the required training, they then receive a purchase card with a *Delegation Letter*. This letter establishes their individual purchase card limits, identifies their approving official, and details the cardholder's responsibilities. Such responsibilities include reading and following the guidance of the FAR and SOP 00 12, *The Government Purchase Card Program*. However, if cardholders received a delegation letter for their Bank of America purchase card (the preceding purchase card through GSA Smartpay®), the SBA didn't issue new delegation letters when the SBA transitioned to the JP Morgan Chase purchase card.

Cardholders and approving officials stated they believed that construction fell under the \$3,000 micro-purchase threshold. However, all stated that since the improper use of the purchase card for construction transactions, they have learned the threshold for construction is actually \$2,000. While the cardholders and approving officials are aware of the construction threshold, there is still a lack of understanding regarding what kind of work constitutes construction. The table below synthesizes the awareness of the cardholders and the approving officials of the micro-purchase limit applicable to construction, the training received by the individuals, and the identification of construction work.

² Title 40 United States Code Section 3142 (Davis-Bacon Act) covers "every contract in excess of \$2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics and laborers..."

³ Code of Federal Regulations, Title 29 Section 3.2

Table 1 SBA Cardholder/Approving Official Awareness of the Reduced Construction Micro-Purchase Threshold

SBA Personnel	Aware of Construction Threshold	Unaware of Construction Threshold	Received Training on the Construction Threshold	Correctly Identified Work Performed as Construction	Did Not Respond
Cardholder 1					X
Cardholder 2		X	No	No	
Cardholder 3		X	No	No	
Cardholder 4		X		Yes	
Cardholder 5	X		Yes	No	
Cardholder 6		X	No		
Approving Official 1		X	Yes	Yes	
Approving Official 2					X
Approving Official 3		X		No	
Approving Official 4	X		Yes	Yes	
Approving Official 5					X
Approving Official 6		X	No	Yes	

EFFECT

The SBA violated the FAR and SBA policy when personnel made construction purchases over the \$2,000 dollar threshold. Additionally, by using the purchase cards to circumvent the traditional contracting requirements, which includes establishing price reasonableness, the SBA may not have obtained the best price for the services rendered. Further, by not using a contract vehicle to perform this work, the Government’s interests were not protected by the various clauses that are applicable to contracts.

RECOMMENDATIONS

We recommend that the Chief Financial Officer:

1. Ensure all purchase cardholders have, on file, current delegation letters that reflect current limitations and approving officials.
2. Provide training to SBA purchase cardholders and approving officials on the proper use of a government purchase card, to include purchase limitations and the definition of construction.

We recommend that the Chief Operating Officer:

3. Review the routine maintenance needs of SBA buildings within the Washington, DC area. If there is an on-going need for construction, the SBA should award the most appropriate contract type to provide this service.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

On July 5, 2012, we provided a draft of this report to the Chief Financial Officer (CFO) and the Chief Operating Officer (COO) for comment. On July 23, 2012, the CFO and COO submitted formal comments, which are included in their entirety in Appendices I and II. The CFO did not specifically state whether he agreed or disagreed with the audit finding and recommendation 1, and partially agreed with recommendation 2. The COO concurred with the finding and the related recommendation 3. A summary of management’s comments and our response follows.

Recommendation 1

Ensure all purchase cardholders have, on file, current delegation letters that reflect current limitations and approving officials.

Management Comments

The CFO stated that a signed delegation letter must be returned to the Agency Purchase Card Program Coordinator by each individual appointed as a purchase cardholder under SBA's policy. The CFO also stated, by November 15, 2012, they will review the files of cardholders appointed since the transition to JP Morgan Chase to ensure the delegation letters contain limitations and approving officials.

OIG Response

We consider management's comments responsive to the recommendation.

Recommendation 2

Provide training to SBA purchase cardholders and approving officials on the proper use of a government purchase card, to include purchase limitations and the definition of construction.

Management Comments

The CFO partially agreed with this recommendation stating management will include the limitations on construction purchases in training materials by September 30, 2012. However, the CFO does not believe there is a standard, government-wide legal definition of "construction."

OIG Response

We consider management's response partially responsive to the recommendation. As noted in our report, the FAR, Section 2.101 defines the term "construction." If further guidance is needed, we suggest consulting SBA legal counsel for assistance.

Recommendation 3

Review the routine maintenance needs of SBA buildings within the Washington, DC area. If there is an on-going need for construction, the SBA should award the most appropriate contract type to provide this service.

Management Comments

The COO concurred with the recommendation stating the SBA will conduct a review of routine maintenance needs of its buildings in the Washington, DC area. If it is determined there is an on-going need for routine maintenance, the SBA will award a Blanket Purchase Agreement to provide this service.

OIG Response

Management's comments are responsive to the recommendation.

Actions Required

Please provide your management decision for each recommendation on the attached SBA Form 1824, *Recommendation Action Sheet*, within 30 days from the date of this report. Your decision should identify the specific action(s) taken or planned for each recommendation and the target dates(s) for completion.

We appreciate the courtesy and cooperation of the Small Business Administration during this audit. If you have any questions concerning this report, please call me at (202) 205-7390 or Riccardo Buglisi, Director, Business Development and Programs Group at (202) 205-7489.

APPENDIX I: AGENCY COMMENTS FROM THE CHIEF FINANCIAL OFFICER



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

To: John K. Needham
Assistant Inspector General for Auditing

From: Jonathan I. Carver
Chief Financial Officer

Date: July 23, 2012

Re: Advisory Memorandum: Inappropriate Use of Government Purchase Card for
Construction Purchases, Project 12003 Recommendation 1 and 2

The Office of the Chief Financial Officer (OCFO) appreciates the opportunity to respond to the Recommendations in your Advisory Memorandum.

RECOMMENDATIONS AND RESPONSES

1. Ensure all purchase cardholders have, on file, current delegation letters that reflect current limitations and approving officials.

A signed delegation letter must be returned to the Agency Purchase Card Program Coordinator by each individual appointed as a purchase cardholder under SBA's policy. The appointee's signature indicates that he/she has read, understands, and agrees to comply with his/her cardholder role and responsibilities under the SBA's SOP 00 12 and applicable rules and regulations, which are outlined in the delegation letter. We will review the files of cardholders appointed since the transition to JP Morgan Chase to ensure the delegation letters contain limitations and approving officials.

Anticipated Completion Date: November 15, 2012

2. Provide training to SBA purchase cardholders and approving officials on the proper use of a government purchase card to include purchase limitations and the definition of construction.

We partially agree with your recommendation, and we will include the limitations on construction purchases; however, we do not believe there is a standard, government-wide legal definition of "construction" and are open to discussion with the OIG on how to address a definition for the agency's use.

APPENDIX I: AGENCY COMMENTS FROM THE CHIEF FINANCIAL OFFICER

Anticipated Completion Date: We will incorporate the limitation of construction purchase card limitations into our training materials by September 30, 2012.

APPENDIX II: AGENCY COMMENTS FROM THE CHIEF OPERATING OFFICER



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

To: John K. Needham
Assistant Inspector General for Auditing

From: Paul T. Christy
Chief Operation Officer

Date: July 23, 2012

Re: Advisory Memorandum: Inappropriate Use of Government Purchase Card for
Construction Purchases, Project 12003 Recommendation 3

The Office of Chief Operating Officer concurs with your finding that personnel from the Office of Management and Administration, Administration Services, inappropriately exceeded the \$2,000 threshold micro-purchase established by the Federal Acquisition Regulation and SBA SOP 00 12 2 and *The Government Purchase Card Program* dated June 28, 2007 for construction purchases at the SBQ Washington, DC area office.

To prevent further infractions of the \$2000 micro-purchase threshold for construction the following actions will be implemented as of July 23, 2012:

- a. A review of routine maintenance needs of SBA buildings within the Washington, DC area will be conducted to determine if there is an on-going need for construction. If so, SBA will award a single award or a multiple awards Blanket Purchase Agreement to provide this service.
- b. Ensure all M&A purchase cardholders have, on file, a current delegation letter that reflects their current limitations and approving officials.
- c. Ensure M&A purchase cardholders and approving officials attend appropriate training on the proper use of government purchase card, to include purchase limitations and the definition of construction.
- d. All purchase card requests at or over the \$2000 threshold will include the below statement and will be initialed by the Deputy Management and Administration:

APPENDIX II: AGENCY COMMENTS FROM THE CHIEF OPERATING OFFICER

I certify this purchase card transition will not be used for construction purposes as defined by the FAR, Part 2.101. Initials: _____ Date: _____

If you require further information please call my Acting Deputy Director Management and Administration, Ricardo Garcia at (202) 205-7024 or email Ricardo.Garcia@sba.gov.