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**INTRODUCTION:** This bulletin provides guidance for administering discipline or corrective actions in cases of government travel charge card misuse. It covers: establishing the basis for taking a disciplinary action; framing the charges; selecting the appropriate penalty; and following the procedural requirements.

Reference the Office of the Assistant Secretary of the

Army for Financial Management and Comptroller (ASA(FM&C)) memorandum, dated December 19, 1996, subject: American Express Government Travel Charge Card. In the memorandum, ASA(FM&C) points out the travel charge card is essential to the accomplishment of Army's mission-related TDY travel. The card program gives Army travelers the freedom and flexibility to perform government travel by using the card for hotels, meals, and miscellaneous expenses without having to obtain a travel advance from the finance office. The travel charge card is the primary means of up-front funding for these travel expenses. It is a vital asset that must be protected. This is a travel card, not a credit card!

### CATEGORY 1 - Misuse of the Government Travel Charge Card

**BASIS FOR TAKING THE DISCIPLINARY ACTION:** To discipline employees for the misuse of the travel charge card, it is essential to remember that the card is provided only for official travel and travel-related expenses away from the official duty station. The card and the account are not to be used for personal purposes. Employees are notified of this restriction when they sign up for the card. To use the card for other than official business is, therefore, a violation of specific written instructions. Any use other than official use may subject a person to disciplinary action.

**FRAMING OF THE CHARGES:** For there to be a disciplinary action, the agency must be able to establish a nexus between the misconduct and the efficiency of the service, i.e., there must be a direct relationship between the articulated grounds for the adverse personnel action and either the employee's ability to accomplish his or her duties satisfactorily or some other legitimate governmental interest promoting the efficiency of the service. The following are examples of ways to establish or support nexus in cases of misuse of the card.

- a. The American Express Company entered into an agreement beneficial to Army. The card's use simplifies TDY travel and saves Army money by reducing travel cost. Proper use of the travel charge card reduces the cost of providing advance travel funds.
- b. Though the card is government-sponsored, it is issued to the employee. This means that the employee is personally responsible for charges made on the card.
- c. In proving that disciplinary action is appropriate for the efficiency of the service, the agency should argue that the appropriate use of the government travel charge card is essential for the efficient administration of official government business. To establish this, the agency should explain why the government has chosen to use the credit card.

The type charges that may be brought against employees who misuse the card will be dictated largely by the circumstances in each case and what can be specifically proven. The policy guidelines and procedures of Change 5, Army Regulation 690-700, Chapter 751, can serve to help make this determination. The travel card misuse may fall into one of the following categories of charges: (1) failure to follow written instructions;

(2) conduct unbecoming a Federal employee; and (3) misuse of a government travel charge card. Charge (1) is the preferred charge especially if written documentation is available in the form of the agreement the employee signed that specifies that the card is for official use only.

The choice of a single charge or multiple charges will depend on the circumstances of each case. The Civilian Personnel Advisory Center (CPAC) will assist management in framing the appropriate charges and specifications. The proposal and decision letters must be coordinated with the local labor counselor.

**SELECTING THE APPROPRIATE PENALTY:** There is a wide range of corrective actions and penalties available in cases where misuse of the travel charge card has occurred. The ultimate decision concerning the appropriate type of disciplinary action that may be imposed depends upon the circumstances of each individual case. Army activities have reported successfully employing measures that include: (1) dismissals; (2) suspensions;

(3) formal counseling; (4) alternative discipline; (5) referrals to the EAP Office for counseling; and (6) formal reprimands.

There are also some recent Merit Systems Protection Board (MSPB) cases concerning misuse of the government travel card. The following two cases demonstrate the rationale given by MSPB for sustaining or modifying the charges.

a. In Kye v Defense Logistics Agency (DLA), 64 M.S.P.R. 570 (1994), the appellant petitioned for review of the initial (November 12, 1993) decision that sustained her removal for the following charges: failure to safeguard government credit card and personal identification number; failure to follow specific instructions for reporting loss, theft, or compromise of the government credit card; misuse of government credit card (improper charges); and providing false information in an agency investigation.

The MSPB reversed the initial decision, and the penalty was mitigated to a 45-day suspension. The Board considered the charges serious but took into account the failure to sustain all of the charges; the appellant's excellent, unblemished record; and taking full responsibility to repay improper charges (over \$2,000 in cash withdrawals). The suspension of 45 days, rather than removal, was considered the maximum reasonable penalty for the sustained charges against the appellant, which included all of the above charges with the exception of the charge of "providing false information in an agency investigation." The appellant in this case encumbered a GS-12 Supervisory General Supply Specialist position.

b. In Baracker v Department of the Interior, 70 M.S.P.R. 594 (1996), the appellant, a Senior Executive Service employee, was suspended for 15 days for misuse of the government credit card. In this decision, the Board held that the agency was not required to prove intent in order to sustain a charge against the employee of misuse of the government credit card. The Board sustained the 15-day suspension. The Board found that the employee did not dispute the administrative judge's findings that the employee used the government travel card to take trips for his personal convenience and not for official

government business, and that those instances constituted misuse of the government travel card. The employee argued that the agency may discipline him only if he intentionally misused the card, and since he did not have this intent, the Board should disapprove the adverse action the agency took against him. The Board rejected his argument holding, first, that the agency need not prove intent and, second, that the agency, in this case, had proven intent. It had provided him with rules for the card's use and the employee had signed a document approximately six weeks before the first instance of misuse indicating that he had received, read, and understood the agency's memorandum regarding official card use.

The general guidelines and practices regarding the procedural due process requirements, e.g., notice of proposed action, opportunity to reply, consideration of the Douglas Factors, etc., that are necessary for applying discipline in other situations are applicable for these cases.

Supervisors should consider the following in applying disciplinary action in cases of government travel card misuse: The discipline must be severe enough to effect the desired corrective action, and should be in balance with the severity of the offense. In cases of this type, you will often find underlying personal problems such as alcohol and/or financial problems that contribute to the misconduct. Supervisors are encouraged to refer the employee to the Employee Assistance Program (EAP) Office for financial management or other counseling, as appropriate, when there is evidence that the employee is experiencing financial difficulty or other personal problems. Counseling and referrals, however, do not preclude the initiation of disciplinary actions.

## **CATEGORY 2 - Delinquent Payments**

An agency may discipline an employee for failure to pay the debt incurred with a government travel card. In addition, the agency may take administrative actions which are separate from disciplinary and adverse actions. Delinquency may accompany or may be indicative of personal problems employees may be experiencing. Counseling of these employees by the

supervisor or referring these employees to the EAP Office may reveal various reasons for such delinquencies, ranging from not having received travel reimbursement to financial hardship due to personal problems.

Finally, employees should be advised that they may

face adverse consequences for delinquent accounts. The American Express Company is taking actions such as the following in cases of travel card delinquencies: cancellation of the cards; negative reporting to national credit bureaus; and possible garnishment of wages.

**PREVENTING MISUSE** - The most effective way to prevent government travel card abuse is to ensure that employees clearly understand what constitutes proper and improper use of the travel card privilege. Training on how to use the cards through local written guidance, briefings at the time the card is issued, publishing items in local newsletters, and using other published material are all effective as vehicles for providing guidance on appropriate card use. Periodic reminders will help in refreshing what is contained in the card agreement about the "official-use-only" policy.