RESOLUTION OF THE BUDGET AND FINANCE COMMITTEE OF THE NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL - Fourth Year, 2018

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT AND BUDGET AND FINANCE COMMITTEES; ACCEPTING THE FOLLOW-UP REVIEW OF THE DIVISION OF ECONOMIC DEVELOPMENT P-CARD PURCHASES CORRECTIVE ACTION PLAN IMPLEMENTATION; IMPOSING SANCTIONS FOR NOT IMPLEMENTING THE CORRECTIVE ACTION PLAN

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Resources and Development Committee serves as the oversight committee for the Division of Economic Development. 2 N.N.C. § 500(C)(1).

B. The Auditor General's Plan of Operation, codified in 12 N.N.C. §§ 1-10, provides that "12 months after the release of the audit report, the Auditor General will conduct a follow-up to determine the status of implementation [of the corrective action plan.]" 12 N.N.C. § 7(G).

C. The Budget and Finance Committee is charged with receiving post-audit follow-up reports from the Auditor General. 12 N.N.C. §§ 6(B) and 7(H).

D. As part of the follow-up report, the Auditor General shall recommend action to be taken by the Budget and Finance Committee and present the report to the standing committee or committees having oversight responsibility for the audited program. 12 N.N.C. § 7(G).

E. The Auditor General's Plan of Operation provides for the imposition of sanctions under 12 N.N.C. §§ 9(B) and (C), upon the recommendation of the Auditor General in accordance with 12 N.N.C. § 7(G).

F. The Auditor General's Plan of Operation provides that "[a]ny director or chapter official whose salary or other payments are withheld pursuant to § 9(C) shall have the right to have the withholding reviewed by the Navajo Nation Office of Hearing and Appeals." 12 N.N.C. § 9(D).

SECTION TWO. FINDINGS

A. The Auditor General conducted a Special Review of P-Card purchases within the Division of Economic Development (DED). The Budget and Finance Committee approved the audit report and the corrective action plan on August 7, 2012, in resolution BFAU-40-12, which is attached as **Exhibit A**.

B. The Auditor General's office conducted a follow-up review to determine if the corrective action plan had been implemented. The Auditor General's report titled, "A Follow-up Review of the Division of Economic Development P-Card Purchases Corrective Action Plan Implementation" (Auditor General's Report No. 18-05, December 2017) is attached as **Exhibit B**.

C. The corrective action plan listed twelve (12) corrective measures to address the two audit findings. One (1) of the twelve (12) corrective measures has been implemented, leaving eleven (11) or ninety-two percent (92%) of the corrective measures still to be implemented. As a result, both audit findings remain unresolved.

D. The Auditor General has submitted a supplemental memo dated February 9, 2018, attached as **Exhibit C**, amending the initial recommendation for sanctions in **Exhibit B**.

E. The previous DED Division Director resigned effective January 2, 2018, and the current Division Director assumed responsibility for DED on January 16, 2018. Consequently, the Auditor General revised the recommendation in **Exhibit B**, regarding the imposition of sanctions such that: (1) ten percent (10%) of the operating budget for the Division of Economic Development be withheld in accordance with 12 N.N.C. § 9(B), and (2) sanctions against the current Division Director as provided for in 12 N.N.C. § 9(C) be delayed.

SECTION THREE. ACCEPTANCE AND APPROVAL

A. The Navajo Nation hereby accepts **Exhibit B**, Auditor General's Report No. 18-05, December 2017, "A Follow-Up Review of the Division of Economic Development P-Card Purchases Corrective Action Plan Implementation."

B. The Navajo Nation Controller shall cause ten percent (10%) of monies payable from any governmental fund of the Navajo Nation as defined at 12 N.N.C. § 810(S) to be withheld after the recommended sanction is approved by the Budget and Finance Committee and issued to the Division of Economic Development until such time as the Division of Economic Development demonstrates to the Auditor General that the corrective action plan has been implemented per 12 N.N.C. § 9(B).

C. The Navajo Nation Controller shall cause twenty percent (20%) of the Division of Economic Development Division Director's salary to be withheld per 12 N.N.C. § 9(C). However, the effective date of the withholding is delayed until after January 16, 2019, in order to provide the Division Director with a full twelve (12) months to implement the corrective action plan.

D. If the Division Director's salary is withheld after January 16, 2018, the opportunity to appeal will arise at the time of the withholding.

E. The Division of Economic Development shall provide proof of implementation of the corrective action plan at which time the Auditor General shall immediately report the compliance to the Controller who shall then release all withheld funds in accordance with 12 N.N.C. §§ 9(B) and (C).

CERTIFICATION

I, hereby, certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting held at Tsaile/Wheatfields, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 3 in favor and 0 opposed, this 5th day of June 2018.

Dwight Witherspoon

Dwight Witherspoon, Vice Chairperson
Budget and Finance Committee

Motion: Honorable Dwight Witherspoon
Second: Honorable Leonard Tsosie

EXHIBIT A

RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL

22ND NAVAJO NATION COUNCIL - Second Year, 2012

AN ACTION

RELATING TO BUDGET AND FINANCE; ACCEPTING THE AUDITOR GENERAL'S SPECIAL REVIEW OF P-CARD PURCHASES BY THE DIVISION OF ECONOMIC DEVELOPMENT STAFF AND ACCEPTING AND APPROVING THE PROPOSED CORRECTIVE ACTION PLAN AS SUBMITTED BY THE DIVISION OF ECONOMIC DEVELOPMENT

BE IT ENACTED:

1. The Navajo Nation, pursuant to 12 N.N.C. § 7, hereby accepts the Auditor General's Special Review of P-Card Purchases by the Division of Economic Development Staff (Special Review) as found at Exhibit "A" and accepts and approves the Proposed Corrective Action Plan as submitted by the Division of Economic Development as found as Exhibit "B".

2. The Navajo Nation hereby directs that copies of the Auditor General's Special Review and the Division of Economic Development's Corrective Action Plan be provided to the Office of the President and Vice-President and the Resources and Development Committee as part of their oversight responsibility for the Division of Economic Development.

3. The Navajo Nation hereby directs the Division of Economic Development to submit a written status report on its progress in implementing the Corrective Action Plan to the Office of the Auditor General six months after the approval of this resolution.

4. The Navajo Nation hereby directs the Office of the Auditor General to review the written status report to be submitted by the Division of Economic Development and report to the Resources and Development Committee as well as the Budget and Finance Committee.

5. The Navajo Nation hereby directs the Office of the Auditor General to conduct a follow-up review twelve months after the approval of this resolution to verify the actions claimed to have been taken by the Division of Economic Development, to issue a written follow-up report indicating the Division of Economic Development's progress in implementing the Corrective Action Plan and to make any necessary recommendations to the Budget and Finance Committee.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting held at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 3 in favor, 0 opposed, this 7th day of August, 2012.

LoRenzo C. Bates, Chairperson
Budget and Finance Committee

Motion: Nelson S. BeGaye
Second: Jonathan Nez

EXHIBIT

B

OFFICE OF THE AUDITOR GENERAL

The Navajo Nation

A Follow-up Review of the Division of Economic Development P-card Purchases Corrective Action Plan Implementation

Report No. 18-05
December 2017

Performed by:
Alfreda Lee, Senior Auditor

Office of the Auditor General
The Navajo Nation

Elizabeth O. Begay, CIA, CFE
Auditor General

M-E-M-O-R-A-N-D-U-M

TO : Crystal Deschinny, Executive Director
DIVISION OF ECONOMIC DEVELOPMENT

FROM : for Elizabeth Begay, CIA, CFE
Auditor General
OFFICE OF THE AUDITOR GENERAL

DATE : December 11, 2017

SUBJECT : A Follow-up Review of the Division of Economic Development P-card Purchases Corrective Action Implementation

The Office of the Auditor General herewith transmits Audit Report number 18-05, A Follow-up Review of the Division of Economic Development P-card Purchases Corrective Action Plan Implementation. The follow-up was conducted to determine the status of the corrective action plan, which was developed by the Division of Economic Development in response to the 2011 Special Review of P-card Purchases. The 2011 audit report and the corrective action plan were approved by the Budget and Finance Committee on August 7, 2012 per resolution BFAU-40-12.

Follow-Up Results

The corrective action plan listed 12 corrective measures to address the audit findings with the Division of Economic Development p-card purchases. Of the 12 corrective measures, the Division of Economic Development implemented 1 (8%) corrective measure, leaving 11 (92%) not implemented. The follow-up results are summarized in the body of the report.

Conclusion

The Division of Economic Development did not implement the corrective action plan. Consequently, the findings with the p-card purchases reported in the 2011 report remain unresolved. Accordingly, we recommend sanctions be imposed for failure to implement the corrective action plan. Pursuant to 12 N.N.C., the recommended sanctions are: Section 9 (b), withhold 10% of the Division of Economic Development's operating budget and Section 9 (c) withhold 20% of the salary of the Executive Director who failed to implement the corrective action plan. Once the Division of Economic Development fully implements their corrective action plan, all withheld funds under Section 9(b) and (c) will be released to the division.

xc: Clara Pratte, Chief of Staff
OFFICE OF THE PRESIDENT/VICE-PRESIDENT
Chrono

Table of Contents

INTRODUCTION AND BACKGROUND

The Office of the Auditor General performed a follow-up review to determine the current status of the Division of Economic Development corrective action plan.

In 2011, the Office of the Auditor General conducted a special review of p-card purchases made by the Navajo Nation Division of Economic Development staff and issued audit report number 12-11. The special review resulted in two significant findings with related recommendations. The audit report and the corrective action plan developed by the Division of Economic Development was approved by the Budget and Finance Committee on August 7, 2012 per resolution number BFAU-40-12.

Program Purpose and Organization

The Division of Economic Development is established within the Executive Branch of the Navajo Nation. The purpose of the division is to create an environment that is conducive to promote and develop business in commercial, tourism, industrial, and other sectors and to enhance the creation of jobs and business opportunities.

To help carry out this purpose, the Division of Economic Development is comprised of seven departments, each with its own purpose, objectives and authorities, and employs 59 employees. The seven departments are: 1) Administration, 2) Project Development, 3) Business Regulatory Department, 4) Support Services, 5) Small Business Development Department, 6) Tourism Department, and 7) Real Estate Department. The Resource and Development Committee of the Navajo Nation Council provides oversight to the Division of Economic Development and its departments.

P-cardholders, policies and expenses

Currently, the Division of Economic Development has 11 p-cardholders. Of the 11, four cardholders were authorized to use their respective p-cards for operating and travel purchases during the audit scope. However, most operating expenses were made by only two of the four operating cardholders because they were assigned to make operating purchases on behalf of all the departments. The remaining seven cardholders only have travel purchasing privileges.

The monthly spending limits for the operating and travel cards are $5,000 and $2,500, respectively. The p-cardholders are required to adhere to the Navajo Nation p-card, travel and procurement policies when using their cards.

For the six-month period October 1, 2016 through March 31, 2017, total expenditures incurred by the Division of Economic Development were $336,259. Of this amount, $43,600 (13%) was incurred using p-cards. Table 1 summarizes the cardholders and expenses by each department:

[See Table 1 on next page]

Table 1
Summary of p-cardholders and p-card expenses
Between October 2016 and March 2017

Departments	# of cardholders	Travel Expenses	Operating Expenses	Total Expenses
Administration	3	$ 4,403	$ 1,407	$ 5,810
Project Development	1	12	1,110	1,122
Business Regulatory	3	4,310	239	4,549
Support Services	1	4,530	6,295	10,825
Small Business Development	3	2,252	9,344	11,596
Tourism	--	1,380	7,698	9,078
Real Estate	--	--	630	630
TOTAL:	11	$ 16,887	$ 26,723	$ 43,610

Source: Office of the Controller Financial Management Information System

Objective, Scope and Methodology

In accordance with 12 N.N.C., Section 7, our objective was to determine whether the Division of Economic Development implemented the corrective action plan from audit report number 12-11. However, if other significant issues were noted during the review, such issues were further evaluated for materiality and risk to determine whether the issues warranted presentation in this report.

The scope for this follow-up review was for the six-month period beginning October 1, 2016 through March 31, 2017.

To meet the audit objective, we performed the following procedures:

- Reviewed Navajo Nation policies and procedures regarding p-card usage, procurement, and travel.
- Reviewed applicable reports generated by the Financial Management Information System.
- Obtained p-card data from Wells Fargo Commercial Card Expense Reporting system and completed the following:
    a) Identified all p-cardholders for the Division of Economic Development
    b) Extracted all p-card transactions for the cardholders
    c) Identified anomalies based on defined analytical tests
    d) Summarized the data analysis results
- Selected judgmentally a sample of 45 p-card transactions to test for cardholder compliance with Navajo Nation procurement rules and regulations. We focused on the two operating p-cardholders with the highest amounts of operating purchases.
- Selected judgmentally a sample of 29 travel authorizations that contained 90 p-card transactions to test for cardholder compliance with travel policies and procedures.

- Reviewed applicable records provided by the Office of the Controller/Purchase Card Section and the Division of Economic Development.
- Interviewed staff from the Division of Economic Development and the Office of the Controller.

The Office of the Auditor General expresses their appreciation to the Division of Economic Development staff and all other entities who contributed to this audit for their cooperation and assistance.

REVIEW RESULTS
PRIOR FINDINGS, CORRECTIVE ACTIONS AND CURRENT STATUS
Six-month Review Period: October 01, 2016 to March 31, 2017

Prior Finding: Between June 2008 and July 2010, the former Real Estate Development accountant incurred p-card operating and travel expenses totaling approximately $156,500. There was no documentation found on file to support her p-card charges. Once receipts were obtained directly from the merchants, it was revealed that the former accountant purchased personal items that were unrelated to the purpose and objective of the Real Estate Department such as infant/baby items, circular saw, brand name handbags, etc. Therefore, 100% of the $156,500 p-card charges made by the former Real Estate Department accountant were deemed questionable.

Corrective Actions	Current Status of Corrective Actions
1. Cooperate with the Office of the Prosecutor, Office of the Controller/Purchasing Card Section, and any entities to investigate for possible criminal charges and $156,500 restitution.	<u>Not Implemented</u>. In February 2011, the Real Estate Department referred the former accountant to the Office of the Prosecutor-White Collar Crime Unit and the Ethics and Rules Office for further investigation. According to the White Collar Crime Unit, there has been no action on this referral. As such, there was no investigation of the former accountant. The Office of the Auditor General hired a private investigator to investigate the former accountant. The investigation report was referred to the Ethics and Rules Office but as of this report date, no complaint has been filed against the former accountant to seek restitution for the Navajo Nation. In the absence of any investigation or complaint, the Real Estate Department cannot implement this corrective measure. The department manager indicated to have followed up with the White Collar Crime Unit and Ethics and Rules Office several times on the status of her referral but no documentation was provided to substantiate this claim.

Prior Finding: The Division of Economic Development employees did not comply with procurement rules and regulations or travel policies and procedures. Furthermore, cardholders, reconcilers and approvers did not effectively perform their duties and did not submit the required supporting documents of their p-card activities to the Navajo Nation Purchase Card Section in a timely fashion. Consequently, employees were not held accountable for their p-card purchases.

Corrective Actions	Current Status of Corrective Actions
1. Cardholders, reconcilers, and approvers shall not conceal questionable p-card transaction(s); every transaction shall have clear descriptions to prevent concealing personal purchases.	Not Implemented. Of the 45 p-card operating transactions examined, 10 (22%) had purchase descriptions posted in the p-card system that were inconsistent with the descriptions found in the corresponding vendor invoices.
2. Proper classification shall be made on each transaction during the review process; misclassified transactions shall be properly reclassified.	Not Implemented. Of the 45 p-card operating transactions examined, seven (16%) were misclassified based on the following: a) The object codes noted on the general ledger reports were inconsistent with the codes noted on the p-card purchase requisitions. b) The object codes used for p-card transactions did not coincide with the purchase description. For example, an expense for repairing doors was misclassified as an investment consultant expense. The misclassification of p-card transactions was not detected since the card reconcilers and approvers did not properly review the card expense reports generated by the cardholders. Our examination found that 15 of 22 (68%) expense reports did not have the signature of the cardholder, reconciler and/or approver to show p-card transactions were properly reviewed.
3. All supporting documentation shall be attached to each transaction before approval; transactions with no supporting documentation shall become the cardholder's liability to reimburse the Navajo Nation.	Not Implemented. Our examination of samples of operating and travel p-card transactions revealed missing supporting documentation as follows:

	Operating: • 28 of 32 (88%) transactions tested totaling $13,987 did not have three required quotes. • 6 of 45 (13%) transactions tested totaling $2,174 did not have itemized receipts. *Travel*: • 13 of 90 (14%) transactions tested totaling $1,447 were not supported with proper documentation (receipts, trip report, meeting agenda, etc.). • 3 of 20 (15%) lodging expenses tested totaling $339 did not have lodging receipts.
4. Purchases classified as equipment, furniture, non-office supply or large quantity will use the Navajo Nation Purchasing Services Department procurement process; p-card will not be used to procure purchases that require tagging by Navajo Nation Property Management.	Implemented.
5. P-card holders shall be held accountable for all operating and travel related transactions; any unauthorized transaction will be subject to further review, suspension of p-card, and/or disciplinary action according to the Department of Personnel Management Policies and Procedures.	<u>Not Implemented</u>. Our examination of samples of p-card operating and travel transactions revealed that management did not hold the p-cardholders accountable for their p-card usage and there is no evidence that appropriate action was taken to address the following discrepancies: *Operating:* • 37 of 45 (82%) operating purchases tested totaling $17,844 did not have an approved purchase requisition prior to purchase. *Travel:* • 6 of 29 (21%) travel expenses tested totaling $959 were not approved prior to travel. • 10 of 36 (28%) meal charges tested totaling $275 were for more than one traveler per the itemized receipt.

	• 8 of 14 (57%) lodging expenses tested totaling $789 went over the per diem limit without justification. • 8 of 22 (36%) Commercial Card Expense Reporting packets tested were not submitted in a timely manner to the P-card Section.
6. Assign technical personnel to work with individual p-card holders to ensure original invoices, supporting documentation and authorizations are in compliance.	<u>Not Implemented.</u> The Division of Economic Development acknowledged this corrective measure was not implemented.
7. Limit departments and programs to one operations p-card.	<u>Not Implemented.</u> The Division of Economic Development has seven departments. Rather than establishing an operating p-card for each department, four cardholders were given operating purchasing privileges. However, of these four, two were given primary responsibility for making p-card purchases on behalf of all seven departments. Therefore, there were essentially two operating cardholders. Although two operating p-cards are much more manageable, there are still issues with this current arrangement: • Neither cardholder is told which departments they are responsible for because there is no method to collaborate purchases between cardholders. • One cardholder can deny a purchase request while the other cardholder approves the same purchase. • One of the cardholders that did not have an assigned reconciler was reconciling his own p-card activities, which is contrary to p-card policies.
8. Reconcilers and technical personnel should report any non-compliance directly to the division director.	<u>Not Implemented.</u> The Division of Economic Development acknowledged this corrective measure was not implemented.

9. Department and program managers, on a quarterly basis, shall review the division's p-card activities for financial status and accountability.	Not Implemented. The Division of Economic Development acknowledged this corrective measure was not implemented.
10. On a quarterly basis, perform random "desk audits" for Division of Economic Development p-card holders, reconcilers, and approvers to ensure compliance with Navajo Nation purchase card policies, procurement rules and regulations, and employee travel policies and procedures handbook.	Not Implemented. The Division of Economic Development acknowledged this corrective measure was not implemented.
11. Conduct semi-annual training in policy and procedures, rules and regulations, and internal control policy relating to p-card, procurement, and travel.	Not Implemented. The Division of Economic Development acknowledged this corrective measure was not implemented.

Office of the Auditor General
The Navajo Nation

Elizabet[h]

EXHIBIT

C

M-E-M-O-R-A-N-D-U-M

TO : Levon Henry, Chief Legislative Counsel
OFFICE OF LEGISLATIVE COUNSEL

FROM : Elizabeth Begay, CIA, CFE
Auditor General
OFFICE OF THE AUDITOR GENERAL

DATE : February 9, 2018

SUBJECT : Request for Legislation – Division of Economic Development P-card Activities

We request your office to prepare the legislation "An Action Relating to Resources and Development and Finance; Accepting the Follow-up review of the Division of Economic Development P-card Purchases Corrective Action Plan Implementation, and Imposing Sanctions against the Division of Economic Development by withholding 10% of their operating budget for failure to implement their corrective action plan." The legislation sponsor will be Council Delegate Davis Filfred.

On December 11, 2017, the Office of the Auditor General issued report number 18-05, follow-up review of the Division of Economic Development p-card purchases. The follow-up review concluded that the Division of Economic Development failed to implement their corrective action plan. Therefore, pursuant to Title 12 §9(b) and §9(c) we recommended sanction against the Division of Economic Development by withholding 10% of their operating budget and 20% of the Division Director's salary. However, on January 2, 2018, the Division Director that was recommended for sanction resigned from her position and on January 16, 2018, a new division director was hired.

Therefore, the Auditor General would like to amend its previous recommendation as follows:

- Impose sanction pursuant to §9(b) by withholding 10% of the Division of Economic Development operating budget.
- Delay sanction pursuant to §9(c) against the current Division Director.

The Office of the Auditor General will revisit the Division of Economic Development after January 16, 2019 to determine the Division's implementation of their corrective action plan. Based on the outcome of the revisit, a recommendation pursuant to §9(c) will be provided to the committee.

If you have any questions, please contact our office at extension 6303. Thank you.

Attachment

xc: Davis Filfred, Sponsor
Chrono