



Date: September 30, 2024

To: Ron Cortez, Under Secretary for Administration

Cc: Meroe Park, Deputy Secretary and Chief Operating Officer
Craig Blackwell, Chief of Staff to the Deputy Secretary and Chief Operating Officer
Jennifer McIntyre, Chief Legal Officer
Thomas Dempsey, Director, Office of Contracting & Personal Property Management
Richard Haas, Director of Trust Resources, Office of Planning, Management
and Budget
Andrew Mosley, Director, Federal Resources, Office of Planning, Management
and Budget

From: Nicole L. Angarella, Inspector General

A handwritten signature in black ink, appearing to read "Nicole L. Angarella".

Subject: Acquisition Management: Smithsonian Needs to Strengthen Its Management and Allocation of the Rebates Received from the GSA SmartPay Program (OIG-A-24-10)

The Smithsonian Institution (the Smithsonian) receives quarterly rebates as part of its participation in the U.S. General Services Administration (GSA) SmartPay program.¹ Rebates are monetary payments to agencies/organizations based on the dollar or “spend” volume during a specified time period that can be used to directly fund and support mission-critical efforts.

For the fiscal years 2017 through 2022, the Smithsonian received nearly \$2.7 million in rebate payments. Proper management is critical to ensuring that rebates are returned to the appropriation or account from which they were expended. The Smithsonian uses two funding sources to make purchases: federal funds and trust funds. Rebates returning to federal fund accounts are subject to different statutory and regulatory requirements than rebates returning to trust fund accounts. The Smithsonian’s rebates are remitted as a single quarterly check and do not distinguish the original funding source. For more background information, see Attachment I.

The Smithsonian Office of the Inspector General (OIG) conducted this audit to assess the extent to which the Smithsonian has developed and implemented written policies, procedures, or guidance for rebates received from the GSA SmartPay program and the extent to which these funds are spent in accordance with applicable laws, regulations, and guidance. Our methodology was to review written policies, procedures, and guidance for the rebate payments and determine how the Smithsonian managed rebates. For a detailed description of OIG’s objectives, scope, and methodology, see Attachment II.

¹ Established in 1998, the GSA SmartPay program is the world’s largest government charge card and commercial payment solutions program, providing services to more than 560 federal agencies, organizations, and Native American tribal governments. It enables authorized government employees to make purchases on behalf of the federal government in support of their agency/organization’s mission.

RESULTS OF THE AUDIT

OIG determined that the Smithsonian did not properly allocate the charge card rebates received back to the appropriate funding sources (federal funds and trust funds) because management did not have adequate rebate allocation policy and procedures to establish a clear methodology and guidance for how to allocate rebates equitably. Instead, management allocated the entirety of the rebates to a federal account and then redistributed all of the rebate money to the central trust account to fund the charge card program's salaries and expenses. To comply with federal appropriations law, the Smithsonian needs to allocate the refunds to the appropriate funding accounts.

GSA SmartPay program guidance states that "refunds are discounts offered by the banks, which may be deposited to the credit of the appropriation against which the initial cost was charged."² This guidance came from the decisions of the U.S. Government Accountability Office (GAO) that defined travel rebates as refunds to obligated appropriations and held that agencies were authorized to retain refunds to appropriations. Specifically, the general appropriations rule is that all funds received for the use of the United States must be deposited into the Treasury's general fund as miscellaneous receipts. One of the exceptions is that an agency may retain receipts that qualify as refunds to appropriations. Such receipts represent a return of a portion of a prior agency payment and may be deposited to the credit of the appropriations against which the payment was initially charged.³

Furthermore, Appendix B of OMB Circular A-123 states, "Unless specific statutory authority exists allowing refunds to be used for other purposes, refunds must be returned to the appropriation or account from which they were expended, and can be used for any legitimate purchase by the appropriation or account to which they were returned, or as otherwise authorized by statute."⁴

In 2012, the Smithsonian's Office of Planning, Management, and Budget (OPMB) acted on informal advice from an Office of Management and Budget (OMB) representative to "Deposit the whole rebate in the federal account and then transfer it (or make payment) to the trust account to cover those staff costs." Since 2012, the Smithsonian inconsistently applied this method. In fiscal year 2020, OPMB directed Smithsonian staff to fully implement this process. Proper allocation between federal and trust funds, as required by GSA guidance, GAO decisions, and OMB A-123 guidance, for rebates received since fiscal year 2012 did not occur. This guidance requires that refunds be returned to their respective appropriation or expense accounts. As a result, the rebates received since fiscal year 2012 were not properly allocated between the federal and trust funds as required by GSA guidance, GAO decisions, and OMB A-123 guidance that refunds must be returned to the appropriation or account from which they were expended.

A misallocation of rebates or noncompliance with federal appropriations law can occur without an equitable distribution of rebate money.

² U.S. General Services Administration, *Refunds*, <https://smartpay.gsa.gov/about/refunds/>, last access date March 1, 2024.

³ *Rebates from Travel Management Center Contractors*, B-217913, 65 Comp. Gen. 600, May 30, 1986; *Accounting for Rebates from Travel Management Center Contractors*, B-217913.3, 73 Comp. Gen. 210, June 24, 1994.

⁴ OMB Circular A-123, Appendix B, Chapter 7.5 (August 27, 2019).

RECENT MANAGEMENT ACTIONS

After OIG brought these issues to OPMB's attention, OPMB undertook a new approach to allocating rebates. OPMB now determines the percentage of overall expenditures that were made during the quarter in each of the following four funding source categories:

- federal salaries and expenses,
- federal facilities capital,
- trust, and
- non-appropriated Barro Colorado Island funding.

They then distribute the rebate credits received for the quarter to newly established designated codes for each of the funding source categories in accordance with the expenditure ratio for that period.⁵ This new approach was outlined in a memo dated January 12, 2024, and was implemented in February 2024, when Smithsonian recorded rebates received for Fiscal Year 2024 Quarter 1. Smithsonian also used this new approach to reallocate rebates received for Fiscal Year 2023. Therefore, we will close recommendation one as of the date of this report.

CONCLUSION

The proper management of rebate money is critical to ensuring that rebates are returned to the appropriation or account from which they were expended. Prior to the initiation of this audit, the Smithsonian had not established an equitable distribution of rebate monies received. Therefore, this created the improper allocation of rebates received from the GSA SmartPay program, which may have left the Smithsonian out of compliance with federal appropriations law. Failure to fully address these issues could impact the Smithsonian's ability to properly account for rebates received and to allocate the money to the appropriate funding source. The Smithsonian management is aware of these potential issues and has implemented a new procedure for the revised approach.

RECOMMENDATIONS

To strengthen the control environment for the Smithsonian rebates, OIG recommends that the OPMB Directors of Federal Resources and Trust Resources take the following actions:

1. Finalize and implement policies and procedures for allocating and recording GSA SmartPay program rebates.
2. Evaluate and document the decision to address past rebate allocations to ensure that funds were appropriately allocated to the proper accounts.

⁵ Undersecretary of Administration, Office of Planning Management and Budget Memo *SmartPay Rebate Allocation Process* (January 12, 2024).

MANAGEMENT RESPONSE AND OIG EVALUATION

OIG provided a draft of this report to Smithsonian management for review and comment. They provided written comments, which are reproduced in their entirety in Attachment III. In its written comments, management concurred with all the recommendations and outlined actions planned to address them.

Management stated that it is important to remember that the Smithsonian is unique given it has both federal and Trust operations, and employees are often required to manage and oversee both operations regardless of their employment status. Therefore, management used this approach to the rebate allocation because Trust-funded employees oversee the implementation of a program that supports federal and non-federal activities. OIG maintains that since fiscal year 2012 Smithsonian management did not properly allocate its rebates between the federal and trust funds; GSA guidance, GAO decisions, and OMB A-123 guidance require refunds must be returned to the appropriation or account from which they were expended. As a result, a misallocation of rebates or noncompliance with federal appropriations law can occur without an equitable distribution of rebate money.

BACKGROUND

The Smithsonian receives rebates through the use of U.S. General Services Administration (GSA) SmartPay purchase and travel cards based on factors such as the volume of spending and speed of payment. Established in 1998, GSA SmartPay is the world's largest government charge card and commercial payment solutions program, providing services to more than 560 federal agencies, organizations, and Native American tribal governments. GSA SmartPay enables authorized government employees to make purchases on behalf of the federal government in support of their agency/organization's mission. Rebates are considered refunds under federal appropriation law and are monetary payments provided by a contractor to agencies, based on the dollar or "spend" volume during a specified time period.

According to GSA SmartPay program guidance, which incorporates the Government Accountability Office's decisions, refunds are discounts offered by the banks, which may be deposited to the credit of the appropriation against which the initial cost was charged. If that appropriation has expired, but has not yet closed, the refund may be credited to the expired account when available. If the appropriation has expired, and the expired account has been closed, the refund would be properly credited to the appropriate Treasury general fund.

Appendix B of the Office of Management and Budget (OMB)⁶ Circular A-123 provides guidance establishing standard minimum requirements and best practices for government charge card programs that individual agency policies and procedures may supplement. It states, "Unless specific statutory authority exists allowing refunds to be used for other purposes, refunds must be returned to the appropriation or account from which they were expended."⁷

The total rebates are remitted to Smithsonian as a single quarterly check and do not distinguish between federal funds and trust funds. Rebates returning to the federal fund accounts are subject to different statutory and regulatory requirements than rebates returning to the trust fund accounts.

⁶ OMB serves the President of the United States in overseeing the implementation of his or her vision across the Executive Branch. OMB's mission is to assist the President in meeting policy, budget, management, and regulatory objectives and to fulfill the agency's statutory responsibilities.

⁷ OMB Circular A-123, Appendix B, A Risk Management Framework for Government Charge Card Program (August 27, 2019).

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this audit was to assess the extent to which the Smithsonian has developed and implemented written policies, procedures, or guidance for rebates received from the U.S. General Services Administration (GSA) SmartPay program and the extent to which these funds are spent in accordance with applicable laws, regulations, and guidance.

The Smithsonian Office of the Inspector General (OIG) assessed written policies, procedures, and guidance on how rebate payments are distributed to Smithsonian funding sources. OIG also interviewed Smithsonian management to understand the process for allocating rebates received.

To assess the implementation of the process of receipt and allocation of rebates, OIG obtained, reviewed, and analyzed information provided by Smithsonian management. This information included the following:

- cash receipt vouchers and bank transaction details for the GSA SmartPay rebates received from fiscal years 2017 through 2022, and
- Smithsonian's Enterprise Resource Planning Financials System queries with funding source information.

To assess the use of rebates to fund the trust salaries and expenses of the Charge Card Program staff, OIG obtained, reviewed, and analyzed the above information and the Charge Card Program staff's salary and expenses for the fiscal years 2017 through 2022.

OIG conducted this audit in Washington, D.C., from April 2023 through September 2024 in accordance with generally accepted government auditing standards. Those standards require that OIG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on the audit objective. OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions based on its audit objective.

MANAGEMENT COMMENTS

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Memo



Smithsonian

Office of the Under Secretary for Finance and Administration

TO: Joan Mockeridge, Assistant Inspector General for Audits

FROM: Ronald S. Cortez, Under Secretary for Finance and Administration 

CC: Richard Haas, Director of Trust Resources
Andrew Mosley, Director of Federal Resources
Tom Dempsey, Director of Office of Contracting and Personal Property Management
Catherine Chatfield, Program Manager, Enterprise Risk Management and OIG Liaison

DATE: September 23, 2024

SUBJECT: Response to Final Draft of the OIG's Audit of the Management and Allocation of the Rebates Received from the GSA SmartPay Program

We acknowledge and appreciate both the significant level of effort expended by OIG in evaluating this issue as well as the time invested to appreciate the diverse perspectives of this complex issue.

Section 1: Response to Recommendations

Recommendation 1: Finalize and implement policies and procedures for allocating and recording GSA SmartPay Program Rebates.

The Office of the Under Secretary of Finance and Administration (OUSFA) concurs and has already implemented this recommendation. As indicated within this report, OIG has determined that the Office of Planning, Management, and Budget (OPMB) has provided an updated approach as outlined in a memo dated January 12, 2024, and implemented in February 2024, following the recording of the receipt of the rebates for Fiscal Year 2024 Quarter 1 and Fiscal Year 2023.

As indicated within this report, OIG will close this recommendation as of the date of this report.

Recommendation 2: Evaluate and document the decision to address past rebate allocations to ensure that funds were appropriately allocated to the proper accounts.

OUSFA concurs and will evaluate past rebate allocations, document the decisions for addressing any changes, and provide that documentation to the OIG. We plan to close this recommendation by April 30, 2025.

Section 2: General Response to the Audit

In 2012, the Institution submitted a request to OMB as part of the FY 2013 President's Request budget process to include specific legislative authority to deposit GSA SmartPay Program rebates directly into one of its trust accounts. The Institution believed the authority was needed to ensure our Trust (non-federal) costs required to manage the GSA SmartPay Program could be fully supported by the rebates. In response, OMB did not approve the request for new legislative

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Memo

language but offered guidance from its Office of General Counsel (OGC) to the Smithsonian for how the Institution could allocate the rebates to support our Trust-incurred costs while also remaining in compliance with its Circular A-123.

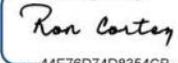
While we certainly appreciate the concerns expressed by OIG regarding the practice of allocating the rebates received, it is also important to remember that the Smithsonian is unique given it has both federal and Trust operations and often its employees are required to manage and oversee both regardless of their employment status. This situation describes Smithsonian's approach to managing the GSA SmartPay Program. Specifically, Trust-funded employees were overseeing the implementation of a Program that supports federal and non-federal activities.

Regarding the rebate allocation procedures the Institution followed previously, please know we were operating in good faith based on guidance offered by OMB's OGC.

Based on the ongoing collaboration between the OIG and the offices that report to me, we were able to implement a new policy and procedure in January 2024 that addresses the OIG's concerns related to equitably allocating the rebates to Smithsonian's federal and Trust accounts. We remain committed to working with your team to improve the management of Smithsonian resources and look forward to continuing those efforts.

Please let me know if we can be of further assistance.

With appreciation,

DocuSigned by:

Ronald Cortez, JD, MA

OFFICE OF THE INSPECTOR GENERAL



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Smithsonian Institution
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