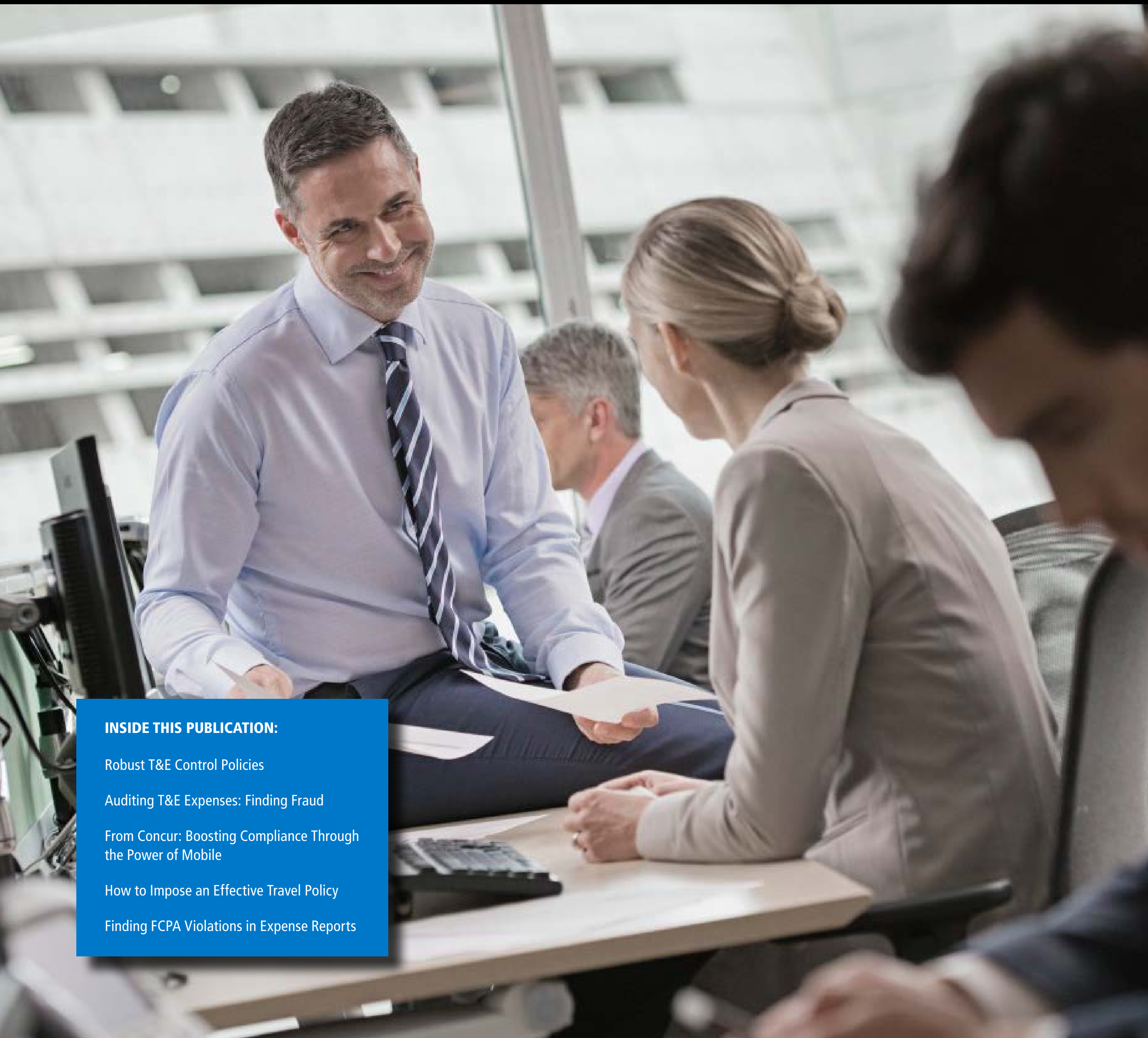

INSIDE THIS PUBLICATION:

The Nuts & Bolts of T&E Policies

An e-Book publication sponsored by CONCUR

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Inside this e-Book:

Robust T&E Control Policies

By Jaclyn Jaeger

Yes, yes, we all know that travel and entertainment expenses have long been a haven for fraud, bribes, and other spending abuses—but the T&E account has rarely been the starring culprit in a regulatory enforcement action.

Until now, that is.

In an unusual move, the Securities and Exchange Commission brought two enforcement actions under the Foreign Corrupt Practices Act for bribery payments hidden as gifts, travel, and entertainment expenses. The cases are yet another cautionary tale of what can happen to a company without proper T&E controls.

"A lot of times, T&E abuses are add-on charges to an FCPA enforcement action involving a larger pool of improper activity, including allegations of significant cash bribes," says James Tillen, a partner with law firm Miller & Chevalier. That was not the case, however, for Bruker Corp., a maker of scientific instruments based in suburban Boston. The company paid a $2.4 million penalty to the SEC in December for providing improper payments for non-business related travel to various Chinese government officials as it wooed them for business.

The five most popular merchant category codes for non-compliance spending are:

- Electronics stores
- Management, consulting, and public relations firms
- Theatrical producers (Non motion-picture)
- Computer software stores
- Sports & athletic clubs, country clubs, and golf courses

Source: Oversight Systems.

According to the SEC, Bruker's lax internal controls allowed employees in its China offices to make $230,000 in improper payments by entering into sham collaboration agreements, and the money was used to send Chinese officials on sightseeing trips around the world. Bruker then falsely recorded the payments as legitimate business and marketing expenses, disguising them as research services.

The FCPA community hasn't seen an enforcement action like that since 2009, when telecom equipment maker UTStarcom agreed to pay $3 million in civil and criminal fines for paying to send executives of Chinese state-owned telecommunications companies to popular tourist destinations.

The Bruker case underlines the importance of having strong internal controls that can detect T&E abuses. "In general, companies are getting into trouble by having an overall lack of controls where you don't have proper monitoring, or a proper approval process," says Tony Jordan, a partner in EY's Fraud Investigation & Dispute Services practice. He declined to comment specifically on the Bruker case.

"When a company has strong internal controls, they have well thought out policies and procedures in place along with some means of monitoring them to ensure those controls are effective," Jordan adds.

The Bruker case also highlights the difficulties that can arise when doing business in countries where lavish gifts are expected, or sometimes even required. "There are certain countries where gifts and entertainment and meals are an integral part of the business culture," Tillen says. (Yes, China is one of them.)

Respecting cultural norms while not violating the FCPA requires a careful balancing act. Because the FCPA does not prohibit the payment of "*normal and customary*" expenses, what's a normal and customary expense in one region may not be in another.

Thus, when establishing policies around T&E expenses, it helps to draft a set of rules tailored to local law and a country's standard of living. That at least gives the compliance department a better chance of support from local employees who interact with foreign government officials.

T&E Policies

Another way to prevent FCPA violations: Get a better grip on T&E expenses in general. Preventive controls include pre-approvals for expenses over a certain threshold, pre-approved vendors, and requiring employees to provide receipts, Tillen says. T&E abuses can also lead to an enforcement action when companies do a poor job on anti-corruption training, and employees don't understand what improper T&E practices are.

Having proper controls in training in place may partly explain why defense contractor FLIR Systems dodged an enforcement action, even after the SEC fined two of its former employees, Stephen Timms and Yasser Ramahi, $50,000 and $20,000, respectively, for FCPA violations. According to the SEC, Timms and Ramahi took Saudi Arabian government officials on a "world tour" to help secure business for the company, and later falsified records to hide their misconduct.

> "When you have strong internal controls, you have both policies and procedures in place, as well as some means of monitoring that and ensuring those controls are effective."
>
> Tony Jordan, Partner, EY

In an administrative proceeding, the SEC noted that FLIR did have a Code of Conduct that required employees to record information "accurately and honestly" in FLIR's books and records, with no materiality requirement or threshold for a violation. Furthermore, both Ramahi and Timms received training on their obligations under the FCPA and FLIR's T&E policies. That training specifically cited "side trips during official business travel" as an example of what not to do.

Another warning raised by the FLIR case is to watch for rogue employees, and investigate accordingly. "Where there is smoke, there is fire," says Patrick Taylor, chief executive officer of Oversight Systems. If suspicious T&E expenses involve certain employees, examine what other activities those employees are involved in. "You may find that there's more going on," he says.

Data Analytics

According to an analysis conducted by Oversight Systems of more than 10 million transactions and more than $1 billion in expenses, 82 percent of T&E-related fraudulent activity was committed by only 5 percent of employees—meaning each company has only a handful of bad actors.

That being said, Taylor recommends looking for patterns of activity across multiple expense categories, such as out-of-pocket expenses that wouldn't be found on the corporate credit card, or duplicate expenses on more than one expense report. "The more you can see patterns of behavior, the less likely it's an innocent mistake," he says.

Technology is also playing a larger role in detecting T&E abuse, Jordan says. "Using data analytics is extremely powerful in this area," he says.

As a practical example, let's say you have multiple employees in different locations around the world directing gifts and T&E-related expenses to one government official. Savvy data analytics would monitor the aggregate amount of T&E expenses going to that official over a given period of time to ensure compliance with all expense thresholds.

Furthermore, compliance and audit should cooperate in order to weed out weaknesses in T&E processes and controls. Internal audit will inevitably discover issues that compliance should know about, Jordan says. "Not tapping into that knowledge source is a big mistake," Jordan explains.

When T&E abuses are discovered, for example, compliance should ask internal audit what additional intelligence it has about possible misconduct to help the compliance team improve the company's anti-corruption controls, Jordan says. "Ask, 'What are we potentially missing?'"

If companies were to draw only one lesson from the Bruker and FLIR Systems' enforcement actions, it should be that T&E abuses alone are not immune to an FCPA enforcement action. Even though the FCPA Resource Guide includes language that cautions against dwelling too much on monitoring gifts and entertainment, no company is ever immune to T&E abuses.

The Department of Justice and the Securities and Exchange Commission will not hesitate to prosecute a company with a systematic pattern of T&E abuses, Tillen says; the recurring pattern raises alarms that the company's internal controls or culture are insufficient to stop the behavior. If the misconduct is a single instance where an employee provided a lavish trip to an official, "that's not likely to result in a prosecution," he adds, "but if it's happening time and time again, that is what's going to get their interest." ■

IMPROPER FUNDING OF LEISURE TRAVEL

Below is an excerpt from the decision in *In the Matter of Bruker.*

The Bruker China Offices funded leisure travel for Chinese government officials to visit the United States, the Czech Republic, Norway, Sweden, France, Germany, Switzerland and Italy. These leisure trips typically followed business-related travel funded by the Bruker China Offices. The Chinese government officials who went on the trips often authorized the purchase of products from the Bruker China Offices. For example, during 2006, as part of a sales contract with an SOE [state-owned entity], a Bruker China Office paid for purported training expenses for a Chinese government official (who signed the sales contract on behalf of the SOE). In fact, the payment included reimbursement for sightseeing, tour tickets, shopping, and other leisure activities in Frankfurt and Paris. Also, in 2007, a Bruker China Office paid for three Chinese government officials to visit Sweden for a conference, but included as part of the travel, several days of sightseeing in Sweden, Finland, and Norway.

The Bruker China Offices also funded certain trips for Chinese government officials that had no legitimate business component. For example, during 2009, a Bruker China Office paid for two Chinese government officials to travel to New York, despite the lack of any Bruker facilities there, and to Los Angeles, where they engaged in sightseeing activities. Also during 2009, a Bruker China Office paid for three Chinese government officials to visit destinations in Europe for sight-seeing. In another instance, during 2010, a Bruker China Office paid for three Chinese government officials to visit Frankfurt, Heidelberg, Stuttgart, and Munich, in Germany, as well as Salzburg, Liz, Innsbruck, Graz, and Vienna, in Austria. And in 2011, a Bruker China Office paid for Chinese government officials from seven SOEs to go on sightseeing visits to Europe, including Austria, France, Switzerland, Italy, and the Czech Republic. In certain cases, the Chinese government officials who went on these trips were involved in purchasing products from the Bruker China Offices.

Overall, from 2005 through 2011, the Bruker China Offices paid approximately $119,710 to fund 17 trips for Chinese government officials that were for the most part not related to any legitimate business purpose. These trips were recorded in Bruker's books and records as business expenses, without any indication that they were primarily for sightseeing and other non-business related activities. Bruker improperly profited by $1,131,740 from contracts obtained from the SOEs whose officials participated on these trips.

Source: *In the Matter of Bruker.*

Auditing T&E Expenses: Finding Fraud

By Jose Tabuena
Compliance Week Columnist

In his August 2008 column, Dan Swanson wrote about returning to internal auditing roots by looking at specific departments (finance, human resources, and so forth) rather than auditing's flavor of the month—such as enterprise risk management, information security, and fraud control.

Here I suggest internal audit units go further by returning to even more prosaic processes that exist in every organization: payroll, purchasing, and the ubiquitous travel and expense reports.

Though less glamorous than emerging hot topics like ERM and IT governance, these core areas still produce a high volume of transactions. With the complexity of computer systems and the participation of numerous employees, these functions remain primary risk areas for potential error, and they tend to experience their share of fraudulent and other inappropriate activity. More critically, problems found with these processes may suggest much larger or complex organizational concerns.

Why Audit Travel and Entertainment Expenses?

For many organizations, travel and entertainment (T&E) expenses represent a major source of discretionary spending. The sheer number of transactions and diverse sources of data and applications make T&E vulnerable to error, abuse, and fraud. Add the increasing use of travel and purchase cards, and that only compounds the complexity and potential for losses. More companies aggregate purchases to negotiate volume discounts and better deals that benefit when employees comply with T&E policies. Recouping a small percentage of excessive or improper T&E expenses can have a substantial impact on the bottom line.

T&E is also a good place for the less-experienced internal auditor to cut his or her teeth. The area doesn't really depend on deep knowledge of company operations, and a new auditor can orient himself rather quickly and be comfortable.

Perhaps more importantly, adherence with expense reporting policies may be reflective of the ethical climate and the tone at the organization. If the workforce considers excessive or maverick T&E spending practices to be the norm, such conduct can readily spread to other behaviors where work pressures can increase the temptation for misconduct.

Research consistently suggests that most people are the product of the environment they find themselves in. They look around and they do what others around them do or expect them to do. What this means is that most unethical behavior in business is supported by the context in which it occurs—either through direct reinforcement of unethical behavior or through benign neglect. In other words, abuse of T&E expenses is a gateway drug to bigger fraud problems you don't want to have.

Approaching the T&E Audit

Most organizations bear the costs associated for employees conducting business on behalf of the company wherever such business takes place. The primary purpose of T&E policies is for the employee not to incur financial loss or to realize financial gain while conducting company business.

Typically the T&E audit involves a review of a sample of employee expense reports for compliance with company policies and directives. It may be appropriate to focus a T&E review on departments or employees with the highest volume and dollar amounts of travel and expense-related expenditures. Common "exceptions" or areas of improvement often involve the following:

» Expense reports not always filed promptly and properly, including the lack of detailed receipts to support the expenditure;

» Failure to specify a business purpose, and to identify participants on expenditures for meals, lodging and flights;

» The *per diem* meal allowance not being followed;

» Employees who, with the approval of their department manager, bypass the corporate travel department and book their own travel arrangements.

In the grand scheme of things, these issues may seem small or even petty. But consider some of the implications: Why would employees *not* follow the company T&E policy?

> Adherence with expense reporting policies may be reflective of the ethical climate and the tone at the organization.

Policy Compliance

Many companies require all travel to be booked by the corporate travel department, presumably to minimize costs. If employees and their managers ignore the travel policy, should the internal audit or compliance department endeavor to enforce the policy? Or, as members of management, should they second-guess the expert who had been hired to run corporate travel?

The ultimate question here—and in any audit—is why the exception happened in the first place. Why do employees go outside the prescribed procedures for T&E expense? Why do their managers agree and approve? And, why hasn't corporate travel seen this and responded to the needs of its customers (that is, the employees doing the travel and entertaining)? Sometimes, exceptions to a policy indicate more of a need to update a policy than to punish the violator.

There is no doubt that the internal auditor should do additional work to get those answers. The auditor should examine expenses to determine if Internet bookings or unsanctioned travel agencies were in fact cheaper than corporate-approved travel agents. If other options are more economical, discussions should be held with corporate travel to determine if they are aware of this situation and what they plan to do in response. Perhaps the employees and senior management don't fully understand the value of the discounts that the expert has negotiated, and a simple awareness effort will eliminate the negative perceptions.

The Tip of the Iceberg

The internal audit department should dig even deeper to ascertain if the lack of compliance is symptomatic of a deeper problem: that policies are not taken seriously at the organization. Not all policies are equal, and non-compliance with an outdated one may not pose a concern—but a cavalier attitude toward travel policies may be indicative of an attitude that "this is in lieu of higher compensation" and "everyone else is doing it." Those attitudes should worry any internal auditor, compliance officer, or senior executive.

Failure to comply with policies suggests that controls are weak. Why would a supervisor approve an expense report if it is not completed accurately with proper receipts, or if the charges are inappropriate? Why would an employee then receive reimbursement if the expenses have not been validated?

The opportunity for fraud or abuse arises when controls are weak. Why not exaggerate a few expenses here or there or bypass the travel department, since no one really cares? Internal controls that once existed may have eroded over time and what starts as a questionable act (and rationalized away as justified behavior) can gradually cross over into improper activity.

Abuse of T&E practices has resulted in bad publicity and poor employee morale. (Just think of all the news stories you read about employees zipping off to Hawaii on a junket, or entertaining clients at strip clubs.) How about the employee who routinely refuses a much lower fare because the times are not at the most convenient times? The workforce readily observes when travel policies are ignored and not routinely enforced.

Setting an Example

An effective internal audit may reveal that a company has spent excessive sums on travel and entertainment expenses in a manner that fails to document adequately the reasonableness, necessity, and business purpose of such expenditures. Addressing such a finding should help to deter wasteful spending and abusive practices. Having systems that aggregate, monitor, and analyze expense data while confirming adherence to policies can go a long way to guide behavior. Monitoring and auditing T&E can highlight opportunities to negotiate better deals and rates, as well as keep circumvention of internal controls to a minimum.

Again, compliance by leadership with T&E policies can set the tone for the organization. Some companies promote an environment of fiscal prudence. The CEO of one of my former employers was admired for the example he set, rarely flying business class and often taking the cheaper, though less convenient fare. That's the way to go. ■

Jose Tabuena provides a unique perspective on internal auditing issues bringing Big 4 firm experience and having held a variety of audit-related roles, including compliance auditor, risk manager, corporate counsel, and chief compliance officer. He has conducted sensitive internal investigations and assessed the performance of internal audit and ethics and compliance functions in highly regulated industries. Tabuena has held major compliance management roles at Kaiser Permanente, Texas Health Resources, Orion Health, and Concentra | Humana. Tabuena is certified as a fraud examiner, in healthcare compliance, and he is an OCEG Fellow.

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Published online 11/11/14

Boosting Compliance Through the Power of Mobile

Human error is a factor in expense reporting—every finance department knows it, and they work hard to prevent it by enforcing expense policies, requiring receipts and auditing expense records for irregularities and missteps.

When expense policy is hard to enforce, or you don't feel like you have a handle on knowing where or how much money your company and its employees are spending, you're not alone. Fifty-seven percent of companies report that poor visibility into T&E spending and compliance is the greatest T&E business pressure they experience.[1]

Without a process or technology in place to avoid these issues, the company is at risk of costly fraud or audits. Mobile technology offers a solution to help ensure standards and policies are followed—while also enabling happier, more productive travelers and employees.

Making the Case for Mobile

While mobile might appear to open up opportunities for out-of-policy spending, the reality is that mobile technology presents an enormous opportunity to increase data visibility, cost control, traveler productivity, and compliance.

The mobile app revolution has put traveler's expense reporting a simple tap away from submitting. And according to Aberdeen[2], mobile apps drive more consistent compliance with corporate policies.

Why? Smartphones and tablets have quickly become the tools of choice for today's connected employees and business travelers. It's where your employees spend their time, and it's central to their daily lives already.

Organizations are now expected to have systems and technology in place that enable employees to access the internet via smartphone or tablet. The driver for this expectation is their employees who want to be able to work anytime, anywhere with whatever device they may have (whether the company provided it or not), and utilize any app. In fact, it is estimated that 87 percent of U.S. business travelers use a smart phone today.[3]

Twelve percent of U.S. travel sales will occur on a mobile device by 2015, according to PhoCusWright[3], and Forrester reports that 66 percent of employees now use two or more mobile devices for work.[4]

Putting the power of mobile technology into your organization enables business travelers to use the apps they love to perform key travel and expense processes on the go, while ensuring the data gets back to the organization for complete visibility into the travel and expense spend.

Help Employees Make the Right Choices

A mobile solution within corporate spending programs can guide users to make the right choices, adhere to corporate spending and travel policies, and eliminate some of the human errors that can affect compliance.

Since the purpose of an expense policy is to provide guidance and take the guesswork out of filling out an expense report, mistakes like duplicate expenses or out-of-policy spend can be prevented more easily with the right controls in place.

Challenges with visibility, control and compliance, as well as the expense processing itself, are dramatically reduced when mobility and automation come into play. Research shows that mobile users have a 91 percent compliance rate to corporate T&E policies, versus 59 percent for non-mobile users.[2] This is because there is higher compliance to the policy with the enforcement of rules within the system.

When it comes down to it, the simplest way to increase compliance is to make it easy for employees to take the right actions and make the right choices—in the case of T&E, it's the effortless expense report.

Capturing Spend at the Source with Mobile

In order to increase compliance and enable effortless expense reporting, the key is to capture spend information at the source and integrate that data capture with the company's T&E expense management system and back-end expense management technology. Once the source capture occurs, there is no reason for the traveler to touch it again, which limits opportunity for errors.

Mobile enables spend capture at the point of purchase, and helps increase compliance and control in four powerful ways.

1. Eliminating lost receipts by taking a picture

1 Aberdeen Group, The T&E Expense Report that "Writes Itself": How Close Are We?, April 2015

2 Aberdeen Group, 10 Benefits of Embracing Mobile

3 PhoCusWright, Travel Technology Survey, 2014

4 Forrester, July 2012

The biggest challenge in expense source recapture is the paper receipt. Mobile apps are an important capability to help alleviate the weakest link in source capture.

When an employee takes a picture of their receipt, an expense entry is created and categorized. The data is captured via OCR and converted to a line item on an expense report with no manual intervention. When employees upload receipts at the time of purchase with a smartphone camera, it's easier to track, manage and complete an accurate expense report.

All of the expense information required for an expense report is captured at the source of the traveler's transaction and no further input is needed to create the report.

2. Keeping expenses accurate

Mobile increases expense accuracy and reduces the opportunity for errors. Enabling mobile data capture, along with integration into corporate card and travel systems, also reduces manual input from the traveler.

The right mobile solution enables expense line items to be prepopulated, which means hotel, airline, and car rental expenses can be automatically added to expense reports and itemized for travelers. Corporate card charges show up ready for review and electronic credit card data is imported automatically, ready to review and submit.

Thanks to the smartphone camera, receipts can't be altered or changed. The amount seen in the image is the exact expense from the vendor or supplier.

Mobile also makes policy compliance easier. You can't change an electronic receipt from a corporate card without it being automatically noted as out of policy. In addition, managers can review anything highlighted out of policy. Since IRS-compliant images are uploaded directly to expense reports, it takes paper out of the equation and creates a trackable audit trail.

Accurate, real-time expense data means better insight to manage company spend, rates and cash flow—and finance can see the big picture.

3. Increasing compliance with built in processes

To improve control over employee spending, your corporate policies can be built in to the mobile app, allowing you to control spending before it even occurs.

Beginning the business travel journey with booking enables you to bring the travel and expense policy, often a little-read document posted on a corporate Website, to life as travelers can easily see the standard policy when they are making a decision about spending the organization's money.

For example, when travelers are perusing travel options within the corporate booking tool, they know what's within policy and what will need manager approval first. Because the system lets you set the limits for travel, your employees are free to choose their own unique travel plans and preferences within those limits.

By connecting to other mobile apps, cash expenses are reduced and replaced with verifiable charges. An employee's corporate card can be synced with the app and the card automatically charged. Not only do the apps make it easy for employees to track their business and entertainment expenses when they're on the go, they automatically and accurately report them.

Modernizing the travel experience doesn't stop with airfare and hotels. By connecting all the pieces together, ground transportation can be automatically booked and linked to flight details in case of a delay.

Furthermore, regardless of where or how travel was booked, mobile can enable companies to locate and communicate with travelers in case of emergency, allowing clients to manage risk and fulfill a duty of care obligation.

4. Simplifying life for expense approvers

Being able to approve reports on the road simplifies everyone's life: Employees and accounts payable teams are happier because reimbursements happen faster and the company avoids late fees.

Expense approvers can easily review receipts and verify amounts via mobile according to policy rules, and have the option to return reports back to sender—before approval—with comments asking for clarity or to have receipts attached. Exceptions are automatically flagged and handled according to corporate policy.

It's easier for audits to uncover mistakes when there are fewer exceptions due to lost receipts. Additionally, employees are consistently and accurately reimbursed in full.

Embrace a Mobile-First Culture

As more companies embrace the value and importance of mobile phones in their employees' lives, they've seen an increase in workplace productivity and compliance. Not only are employees happier with the convenience of being able to work wherever they happen to be, but mobile technology is being put to good use by helping to prevent expense fraud and increase compliance.

T&E spend programs can be valuable resources for compliance and financial professionals to identify trends and potential risks associated with travel and expenses transactions. A corporation's lack of insight into travel expense could derail their compliance efforts.

Capturing the vast majority of T&E data at the point of purchase should ease concerns about reconciling travel expenditures (or complying with SOX) by making an audit more complete, accurate, and timely. The best way to ensure compliance is to make it simple by allowing the expense report to effortlessly write itself.

How to Impose an Effective Travel Policy

By Karen Kroll

Compliance officers can pick fights with employees over any number of workplace policies. But if you really want daggers drawn, venom, and subversive battles at every turn—impose a policy on business travel.

Most corporate road warriors *can* book airfare, hotel, and rental cars simply by clicking onto one of the many travel websites blanketing the Internet. That makes persuading them to use the corporate-sanctioned process all the more difficult, if nearly impossible. "I can get a flight/hotel/car cheaper on my own and with less hassle," is a common response.

Obviously compliance with company travel policy has its value. To start, it helps to manage costs, says Ramon Tavares, co-founder of Blackspark Corp., a vendor of corporate travel software. Although employees can occasionally find better deals on their own, a comprehensive program lets organizations negotiate rates that typically beat most one-off deals. And reasonable policies, like requirements to book flights at least two weeks in advance when possible, also help keep travel expenses in line.

Getting employees to follow travel policies also cuts the risk of abuse and fraud. Questionable expenses are harder to uncover when travelers go around the system, as many aren't automatically flagged.

When employees go outside the system and then run into problems—say, medical emergencies or natural disasters—a company might struggle to respond quickly, if it doesn't have fast access to trip details. Circumventing procedures also hampers a company's efforts to ensure it is covering any tax obligations incurred by traveling employees.

Several techniques can foster compliance. One is communicating with employees in engaging ways, such as short videos and e-learning modules, says Yon Abad, senior director with Carlson Wagonlit Travel's CWT Solutions Group. Written policy documents still are available to provide detail.

Some companies use online travel solutions that automatically steer employees to suppliers with which the company has contracted, and to options that fall within their policies, Abad says. On a practical level, that limits an employee's ability to flout the rules.

Other solutions show all options, but place those that meet the organizations' policies first, says Doug Anderson, vice president at Concur, another software vendor that helps to manage travel expenses. If the options that meet the guidelines aren't practical—say, no flights on the preferred carrier allow enough time for a worker to make an important meeting—the travel department knows why the employee booked a non-compliant flight. "Sometimes, employees book outside the policies, and the business needs to know why," he says.

To curtail the potential for fraud, the system should flag transactions that appear suspicious, Tavares says. One example: duplicate receipts submitted for the same trip. Some companies also impose more reviews on expenses if an employee pays for expenses with personal credit cards or cash, Abad says.

Winning the Policy War

So let's get back to the venom, subversion, and employees hating new policy. A sticks-only approach, with no carrots to encourage compliance, will do a chief compliance officer no favors.

Some companies encourage compliance by recognizing employees who are booking travel according to the rules, Tavares says. "They share success stories." Others initiate competitions between departments to see which ones can boost compliance the most, Abad says. "Liberate their competitive mindset."

Some organizations send automated text messages or e-mails to travelers, reminding them that, for example, the hotel rate already includes Internet access, so they shouldn't pay extra for it, Abad says. These messages also can keep travelers abreast of flight delays and other information relevant to their trips.

The communication can flow both ways. A growing number of organizations collect employee reviews on the travel services they've used, Abad says. "It gives voice to the traveler, and it helps ensure they have the tools they need to be productive on the road."

Along with employees, the budget owners—that is, the department and business unit heads—need to be engaged, says Anita Salvatore, executive vice president at Travizon, a provider of travel management services and technology. "Find out what makes them tick and how to help them achieve their goals," while still maintaining a reasonable budget, she says.

> "While everyone wants to look like a hero for saving costs, you have to understand the culture and engage with stakeholders."
>
> Anita Salvatore, EVP, Global Account Services, Travizon

That's key. Draconian policies can reduce morale and hamper employees' ability to do their jobs. "While everyone wants to look like a hero for saving costs, you have to understand the culture and engage with stakeholders," Salvatore says.

When employees try to circumvent the rules, the organization should know. Many systems require management approval if a proposed trip doesn't meet the organization's guidelines, Salvatore says. Of course, approval should be used with discretion. As she points out, companies that grant every exception request undermine their own policies.

Other Obligations

Employees aren't the only ones with compliance responsibilities arising from their travel. Some countries, as well as some U.S. states, impose tax and reporting requirements on business activities that occur within their borders, even if the workers are just traveling through. "Different obligations accrue to the company, and you need a system to summarize travel data to bubble up any obligations," Tavares says.

This risk has become more pronounced over the past few years, says Kerry Weinger, a partner with law firm Baker & McKenzie. Partly that's because advances in technology, as well as cost concerns, have prompted some companies to use traveling employees rather than expatriates to handle assignments outside their home countries. Often, "cross-border travelers fly under the radar," Weinger says. Because this group of employees typically isn't covered by employers' global mobility programs, no single individual or department is watching for any tax obligations incurred.

At the same time, countries are enacting new laws or more aggressively enforcing existing ones to generate tax revenue from cross-border travelers. The proliferation of electronic identification systems at many border crossings also provides authorities with greater ability to identify which individuals and companies entering their countries might be incurring tax obligations, Weinger says.

Meeting these obligations requires communication, often across a range of departments: the traveling employees, their business managers, tax, compliance, immigration, payroll, and human resources, Weinger says. Employers also need to understand the tax requirements in the jurisdictions where employees travel, implement solid extended traveler policies, and designate an individual(s) to own these processes.

Given the complexities inherent in tracking all traveling employees, companies may want to limit their focus, at least initially. It may make sense to focus on those who rack up many frequent flyer miles, and especially those who travel on business visitor visas, rather than work permits.

Organizations also assume a "a moral, ethical, fiduciary, and legal duty to take care of employees when they cross borders," says Robert Quigley, senior vice president of medical assistance with International SOS, a provider of medical and travel security assistance. Mishandling an emergency can lead to legal, financial, and reputational damage, he adds.

U.S. courts have held organizations responsible for the well being of individuals traveling with them or on their behalf. For instance, in *Munn et al. v. Hotchkiss School*, the plaintiffs sued on behalf of their daughter, a student traveling abroad when she was bitten by a tick. She suffered long-term physical and cognitive disabilities as a result of the bite. The suit alleged the school was careless in planning the trip and supervising the students while they were traveling. The court awarded the plaintiffs $41 million for medical costs and pain and suffering, although the decision has been appealed.

"This is one of the most under-managed risks for all businesses," Anderson says. Organizations must develop protocols for communicating with, safeguarding, and assisting employees who run into danger while traveling.

In today's world, almost all organizations employ workers who must travel to conduct business. That brings some level of risk. Mitigating it requires establishing and enforcing reasonable policies for booking travel services, establishing procedures for managing through emergencies, and paying attention to any tax or reporting obligations incurred because of the travel. ■

PROCEDURAL HISTORY

Below is an excerpt from *Orson D. Munn III et al. v. The Hotchkiss School*, detailing the travel complaints that were filed against the school.

On June 11, 2009, Orson and Christine Munn filed this lawsuit as next friend to their daughter, Cara, alleging that Hotchkiss's negligence in the execution of its 2007 China Summer Program caused Munn's injuries while Munn was a student in Hotchkiss's care.

Specifically, the Munns alleged that Hotchkiss was negligent in (1) failing to properly warn Munn and her parents of the risks of insect-borne diseases, specifically viral encephalitis; (2) failing to provide proper protective clothing, insect repellent, or vaccination by its employees and agents; (3) failing to provide appropriate medical personnel on the trip who could diagnose or arrange treatment for students on the trip; (4) failing to establish procedures for identifying medical emergencies, notifying parents of seriously ill children, and transporting seriously ill students to the United States for treatment; and (5) failing to advise the Munns of the availability of vaccines against viral encephalitis for children of Munn's age traveling to rural areas of northeastern China in summer 2007 …

… At trial, the Munns abandoned the majority of these grounds for liability, proceeding with their arguments regarding Hotchkiss's alleged failure to adequately warn of the risks of insect-borne disease on the China trip, and the alleged failure by its employees and agents to provide proper protection or prophylaxis (e.g., clothing, insect repellent, vaccination).

In addition to deny the allegations of negligence, Hotchkiss asserted several affirmative defenses, including that the Munns' claims were barred by the doctrine of assumption of risk when the Munns signed the school's pre-trip "Agreement, Waiver, and Release of Liability"; Munn's injuries were the result of force majeure or caused by third parties; Munn's injuries were caused by her parents' contributory negligence; and finally, that with the exception of injuries caused solely by Hotchkiss's negligence or willful misconduct, the Munns' claims were barred by a signed release and waiver …

… After four years of discover, two settlement conferences, a dispositive motion hearing and numerous prêt-trial motions, the parties undertook a ten-day jury trial in which nine fact witnesses and ten expert witnesses testified. After the Munns rested their case, Hotchkiss moved for a directed verdict (judgment as a matter of law) pursuant to Rule 50(a) of the Federal Rules of Civil Procedure, arguing that Munn contributed to her own injuries and the risk of contracting insect-borne disease while in Tianjin Province was unforeseeable as a matter of law … I denied that motion, nothing that the key bases for the motion focused on factual disputes that were within the province of the jury as the trier of fact, rather than questions of law …

Source: *Orson D. Munn III et al. v. The Hotchkiss School.*

Finding FCPA Violations in Expense Reports

By Tammy Whitehouse

Travel and entertainment expenses have long been a haven for fraud and abuse. Lately, however, companies have shifted their worries to whether there may be evidence of bribery or corruption hiding in employee expense reports.

As the crackdown by U.S. officials on compliance with the Foreign Corrupt Practices Act continues to intensify, companies have started paying more attention to weaknesses in their T&E processes that might allow violations to slip through unnoticed. "T&E is the key mechanism by which FCPA violations can occur," says Todd Marlin, an Ernst & Young principal who focuses on forensic technology and discovery.

With Walmart now facing steep consequences for alleged FCPA violations that went unchecked for years, companies are sure to take closer notice of where they may have vulnerabilities, says Andrew Levi, a former assistant U.S. attorney and head of the Miami office for investigative firm Nardello & Co. "Walmart is certainly an example of how an FCPA problem can get much larger for a company if it is ignored. If T&E goes unchecked, it can make a company susceptible to allegations of corruption."

> "There may be more than 40 different codes or ways to spend money. That makes it a lot easier to hide and misuse funds."
>
> Debi Scholar, Independent Consultant, Blogger, T&E Issues

One of the reasons T&E expense provides a breeding ground for FCPA violations is that the dollar amounts are usually not substantial, meaning that companies don't always pay close attention to it. In 2010, for example, asset misappropriation, which includes T&E abuse, represented 86 percent of all frauds, yet each case represented an average loss of $135,000, according to data from the Association of Certified Fraud Examiners. Financial reporting fraud, by comparison, represented 10.3 percent of all fraud cases, but losses for each instance averaged $4.1 million.

Accounting experts are now advising companies to pay closer attention to T&E expenses and to look there for potential bribery or corruption payments. Mitigating risks for T&E abuse starts with a clear, effective policy that is implemented and enforced, says Jonathan Marks, a partner with Crowe Horwath in fraud, ethics, and anti-corruption services. Too many companies are operating under policies that are vaguely written and loosely enforced, leaving employees free to flex them to the point of abuse, he says.

At other companies the policies are in place, but they're outdated. Peter Brady, principal with McGladrey & Pullen, says he sees plenty of cases where companies have adopted T&E expense policies, but they haven't been updated to address recent concerns about bribery and corruption. "There's no substitute in my mind for clear policies regarding expenses," he says. "So many companies have policies, but they're not clear, they're not up to date, or they don't cover everything the company needs to cover."

Verick

The areas of meetings and event planning have become bigger risks for T&E abuse, including FCPA infractions, in recent years, says Debi Scholar, an independent T&E consultant. When an individual travels for business, they may have expenses tied to four or five areas, she says, such as hotel, transportation, and meals. But individuals who host corporate events spend far more and those costs fall in to far more categories.

"There may be more than 40 different codes or ways to spend money," she says. "That makes it a lot easier to hide and misuse funds." She tells companies to use the strategic meeting management process endorsed by the Global Business Travel Association as a way to better track meeting spending and spot potential abuse.

SHAKE-UP IN T&E

Big changes among major providers of expense management systems have put some companies in the market for new solutions.

Last December, SAP completed its $8 billion acquisition of Concur Technologies, arguably a dominant player in the market for travel-and-entertainment systems after IBM earlier in 2014 ceased operation of its Global Expense Reporting Solutions as a standalone product. IBM formed a "strategic alliance" with Concur to refer its customers to Concur.

The shake-up has led up and comers like Chrome River, which snatched up IBM GERS talent when it became available in 2014, with its phones ringing off the hooks, say co-founders Dave Terry and Alan Rich. Chrome River hired IBM GERS veterans to help companies that wanted to transition to Chrome River's online, automated expense management solution, the company says.

"The companies we're seeing are global enterprises that sometimes grow organically, but a lot of times through acquisition," says Rich. "That means a lot of backed-in solutions and a lot of different systems floating around with a lot of different policies." When such companies face the latest shake-up and are forced into the market looking for new service providers, they are ripe for consolidation, streamlining, and modernization of systems and policies, he says. Solutions have come a long way from spreadsheets with paper receipts stapled to them, says Terry. "The systems can ensure individual employees are complying with the policies and procedures of the specific organizations," he says.

—Tammy Whitehouse

Another way to prevent T&E expense from becoming a conduit for FCPA violations is to get a better handle on expense reports in general. Experts put T&E controls into two categories—preventive and detective. Preventive controls include preapprovals for expenses over a certain threshold, preapproved vendors, corporate purchasing cards that may have dollar limits or merchant restrictions, and other restrictions on spending. Detective controls involve various methods to review and analyze expense reports after they are submitted and expense report data to spot problems. Some companies are adding a preliminary step to the reimbursement process—requiring employees to submit their expense reports to their immediate supervisors for review and approval before they can be submitted for payment.

Companies are also on the lookout for inappropriate expenses, including the latest technology gizmos, which can be used for improper gifts to government officials. One of the emerging risks that comes to mind for Pam Verick, director and solution leader for fraud and corruption risk management for Protiviti, is "i-anything," she says. "iPads, iPhones—any i-things." Employees may expense them for their own use or to give as corporate gifts, she says. "Employees try to sneak them through as a gateway test to see what they can get away with."

Companies also find employees charging gift cards to their corporate credit cards as a way to circumvent controls on what they can buy with their corporate cards. It's a way to expense a trip to the spa or electronic gadgets for the kids, for example, says Verick.

Advanced Analytics

Technology is also playing a larger role in detecting T&E abuse, Marlin says. Advanced analytics begins by picking apart what employees report in the expense description fields of their expense reports. By applying text analytics and keyword searches, even "fuzzy" matching of keywords, companies can glean a lot of information about what employees are expensing, and who they're paying or entertaining. "It can yield powerful results," he says.

Many companies rely on some of the advanced features in standard spreadsheet technology—like pivot tables, filtering, or macros—to sort data and spot outliers, Brady says. But they need to employ visualization software to take it to the next level, he says. Visualization can show where particular items are clustered, to further isolate outlying data. In addition to visualization software, another emerging tool, says Marlin, is link analysis. It enables a company to trace payments and data across various sources, from financial information to social media, to see information in a new way.

Web-based tools that extract data from the accounts payable system and identify patterns that merit scrutiny are also more common, Scholar says, since they can identify payments that did not go through the proper reimbursement process. If a company is still managing its T&E expenses through a manual, non-automated process that relies on paper checks rather than corporate cards, it is easy prey for fraudsters, she says. ■

MITIGATING T&E RISK

Below is an excerpt from Deloitte's Whitepaper on mitigating T&E fraud, which examines significant issues that can lead to corruption:

The impact of recent U.S. regulations

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act), signed into law on July 21, 2010, should contribute to an increase in the number of internal corporate investigations. Since "whistleblowers" can now receive higher bounties than previous legislation allowed, they may be more attuned to potential areas of risk which could result in judicial or administrative enforcement actions at major corporations. The whistleblower provision states:

"Under the Act, the SEC's authority to award bounties to whistleblowers extends to all judicial and administrative enforcement actions resulting in monetary sanctions (defined to include penalties, disgorgement and interest) of more than $1 million. Whistleblowers are entitled to payments equivalent to between 10 percent and 30 percent of the total amount of monetary sanctions assessed by the SEC, or by the DoJ or other regulatory authorities in related actions. Whistleblowers may be represented by counsel, and award determinations are subject to limited abuse-of-discretion review in an appropriate federal court of appeals."

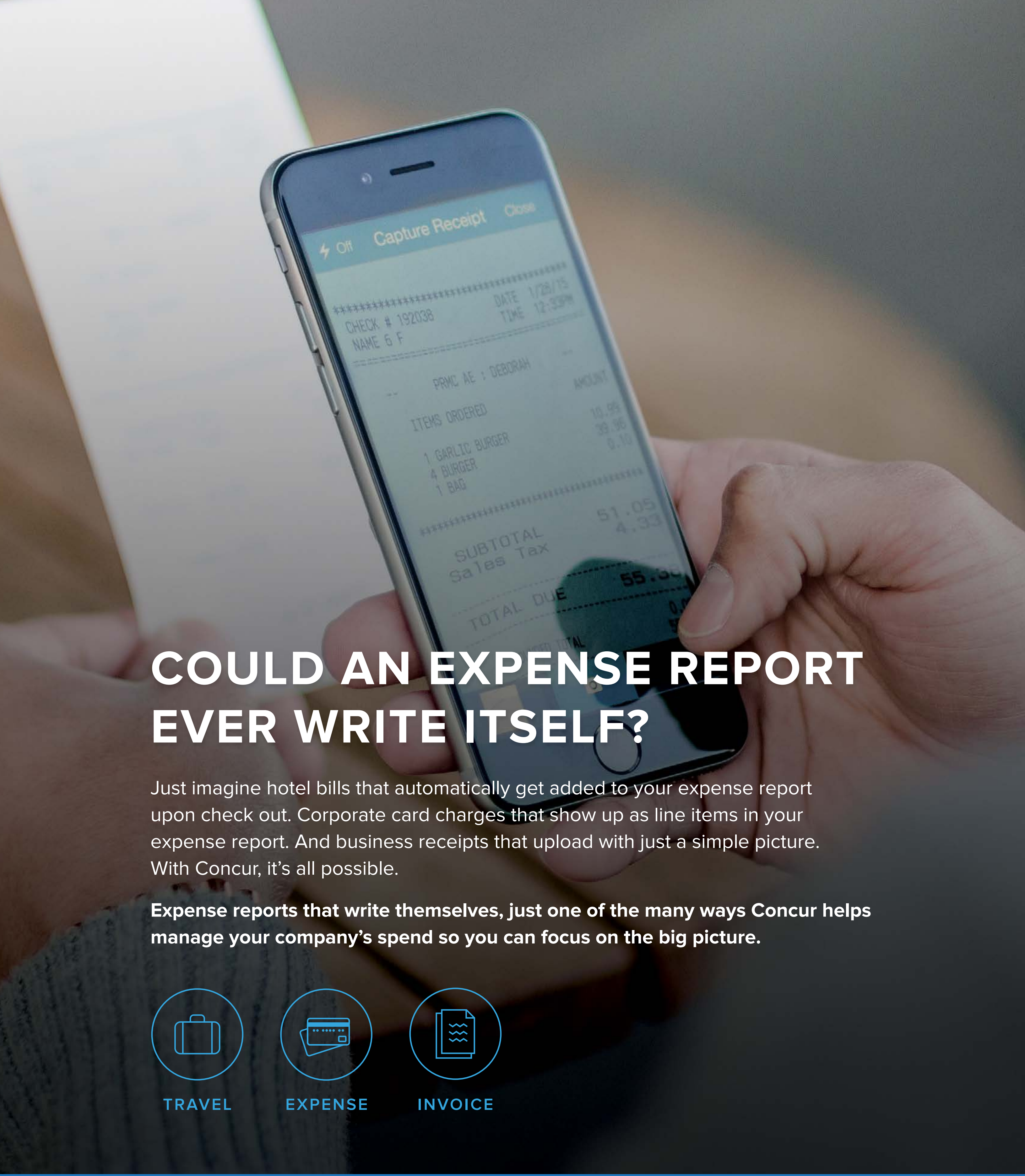
Since T&E expenses are submitted by or approved by large numbers of employees it can be the "tipping point" of increased investigations and/or larger, more important issues if individuals become overzealous in their efforts to identify wrongdoing in their organizations.

Exposure to global anti-corruption regulations

One considerable potential risk associated with T&E fraud is lack of compliance with the Foreign Corrupt Practices Act (FCPA), the Organization for Economic Co-operation and Development (OECD), the UK Bribery Act and other anti-corruption regimes. Especially if the reimbursement pertains to entertainment expenses for international companies that interact with foreign government officials. The aggressive expansion of U.S. and U.K. companies in the B.R.I.C. markets of Brazil, Russia, India and China can also create increased T&E fraud risks. The use of credit cards in these particular markets may be limited and, therefore, it is not unusual for handwritten receipts to be submitted for reimbursement. Credit card transactions are easier to audit as they provide a secondary level of review as the receipt can be compared to the credit card data.

Potential issues can range from a simple lack of supporting documentation for appropriate business charges to employees submitting false or altered receipts for personal gain or using substandard receipts to cover up improper gifts or payments to government officials.

Source: Deloitte.



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