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# STATE OF MINNESOTA

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### Statement of Position Credit Card Use and Policies

Counties, cities, towns, school districts, watershed districts, and soil and water conservation districts have authority to make purchases using credit cards issued to the public entity.<sup>1</sup> The statutes authorizing credit card use by public entities restrict the use of credit cards to purchases for the public entity. No personal use of the credit card is permitted.<sup>2</sup>

According to Minnesota law, credit cards should only be used by those employees and officers otherwise authorized to make purchases. If the public entity does not authorize a credit card purchase, the officer or employee who made the purchase becomes personally liable for the amount of purchase.

Purchases made with the credit card must be consistent with other state law. For example, under Minnesota law, claims presented for payment must be in writing and itemized.<sup>3</sup> Monthly statements received from a credit card company lack sufficient detail to comply with these statutory requirements. As a result, public entities using credit cards must retain the invoices and receipts needed to support the items charged in the bill from the credit card company.<sup>4</sup> Similarly, listing only the credit card company on a claims list would merely identify the method of payment. It does not identify the vendors providing the goods and services, as required by law.

The authority to use credit cards does not authorize the creation of a new form of debt for the public entity. The statutes governing the issuance of debt by a public entity add a number of restrictions to the issuance of any obligation. The credit card statutes simply authorize another method of payment. Therefore, the public entity's governing board must adopt a policy of paying off the credit card charges on a monthly basis.

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<sup>1</sup>Minn. Stat. §§ 471.382 (cities and towns); 375.171 (counties); 123B.02, subd. 23 (school districts); 103D.325, subd. 4 (watershed districts); 103C.321, subd. 6 (soil and water conservation districts).

<sup>2</sup> See, e.g., *State v. Norman*, No. A11-1721 (Minn. Ct. App. Sept. 17, 2012) (unpublished) (reimbursement of personal charges on city credit card does not negate false claim or theft by swindle charges).

<sup>3</sup> See Minn. Stat. § 471.38, subd. 1.

<sup>4</sup> If the original supporting documentation is missing, an attestation or affidavit identifying how, where, and when the money was spent, signed by the individual seeking reimbursement will suffice.

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This Statement of Position is not legal advice and is subject to revision.

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Before implementing the use of credit cards, a public entity should adopt a comprehensive credit card policy that may include such areas as good management practices and internal control procedures.

We recommend the adoption of a comprehensive credit card policy that provides the following safeguards:

- Prohibit the use of the credit card for personal purchases;
- Identify the employees and officers who are authorized to make purchases on behalf of the public entity and are eligible to use the card;
- Identify the particular purchases that are to be made with the credit card;
- Set up a review process for all purchases made with the credit card;
- Require supporting documentation for all purchases made with the credit card;
- Restrict the total amount of charges that can be made on the credit card; and
- Obtain signed written acknowledgments of the credit card policies from all authorized card users.

Some public entities have obtained debit cards instead of or in addition to credit cards. While entities have the authority to make purchases using credit cards, the authority to use debit cards is less clear.<sup>5</sup> Debit cards allow funds to be immediately withdrawn from the entity's financial account, provide fewer protections than credit cards provide, and circumvent statutory claims approval safeguards. We recommend that entities use credit cards, and not debit cards, to make purchases for the public entity.

The ability to use a credit card for small purchases in the ordinary course of business offers many advantages. However, the ability of the cardholder to make the public entity liable for an improper or illegal purchase is an inherent risk associated with credit cards. Compliance with statutory requirements, and the adoption of and adherence to a policy implementing further internal controls will greatly reduce the public entity's exposure to loss of public funds through theft or misuse of the credit card.

Additional guidance on using purchasing cards for government purchases may be found on the Government Finance Officers Association (GFOA) website at: <http://www.gfoa.org/purchasing-card-programs>.

The State of Minnesota's purchasing card and use policy is available at: <http://www.mmd.admin.state.mn.us/pdf/alpappnpolicy1.pdf>.

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<sup>5</sup> In contrast, cities, towns, and counties have clear authority to *accept* payment by use of debit cards. See Minn. Stat. § 471.381, subd. 2.