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Ensuring That Spending Has A Clear Public Purpose

Question: Can a Municipality spend public funds to purchase meals for city staff members and citizens to discuss city business? The answer is, "It depends." This is just one example of what may or may not be proper use of public funds. The following will discuss the use of public funds that benefit private interests.

A basic tenet of Florida law is that public funds must be spent for a public purpose. Attorney General opinions have stated, "the expenditure of municipal funds must meet a municipal purpose, rather than a private purpose,"¹ and, "with only incidental or secondary benefit to private interests."²

Over the past four years, we have issued several audit reports to municipalities that included among our findings, spending that we questioned as not having clear public purpose or public benefit. Most of this spending was through the use of credit cards and purchase cards (P-Cards).³ Credit cards carry inherent risk for misuse in this area due to the flexibility and convenience they provide for making purchases. This is especially true for purchases of items such as food and meals at local restaurants which is not practical to use a requisition/purchase order process. In addition, credit card programs generally increase the number of employees who are given authority to purchase on behalf of the municipality and can do so without prior approval. In our audits, we have identified over \$125,000 in public funds spent on questionable items.

The purchases we questioned did not contain documentation supporting the public purpose of those expenditures. In most municipalities, there was little or no guidance identifying allowable or unallowable purchases including purchases through the use of credit cards. In municipalities where we found minimal spending that we questioned as having a clear public purpose, comprehensive policies and procedures were in place and being closely followed. Those procedures included specific guidance on spending for items such as meals, food and refreshments and use of specific forms, such as a "host" form to document public purpose and obtain an appropriate level of approval. Best practices included policies and procedure formally adopted by elected councils.

¹ AGO 98-81, December 28, 1998.

² AGO 79-14, February, 1979.

³ For purposes of this discussion we will use the term credit card to refer to both.

Enhancing Public Trust in Government

What We Recommend

There are numerous procedures and controls that should be in place to ensure that spending has a clear public purpose. Establishing clear guidance on what is allowable or unallowable spending is an important first step. Obtaining policy guidance from the municipalities' governing body can enhance that process and ensure transparency. In addition, since spending on items that can often be questioned as having a clear public purpose occurs most frequently through use of credit cards, it is important to have strong controls over credit card programs. In this regard, some **key controls** that should be in place include, but are not limited to:

- comprehensive policies and procedures for credit card programs that include specific guidance on allowable and unallowable purchases, including the purchase of food, meals and refreshments.
- a requirement for cardholders to sign a form acknowledging review and understanding of the credit card policy.
- request or justification forms providing information, such as, the purpose of expenditures, participants, dates, and locations.
- timely and effective review, reconciliation, and approval of monthly cardholder statements.
- establishment of single and monthly cardholder purchase limits.
- requirements for documenting missing receipts or invoices and disciplinary actions for chronic abusers.
- assignment of a credit card administrator (Finance) and credit card coordinators for each department with defined duties and responsibilities; and,
- periodic operational reviews of credit card programs.

Municipalities should review their policies and procedures to ensure that they address all parts of a sound credit program and have sufficient guidance as to allowable and unallowable purchases.

When a legislative body, such as an elected town council, makes determinations as to what types of expenditures will serve a public purpose, Florida's courts often will extend some deference to those determinations.⁴ We, therefore, recommend that policy guidance be sought from the municipality's governing body as to expenditures that serve a clear public purpose, and that the resulting guidance be adopted as or incorporated in written policies which are uniformly applied.

In closing and to answer the posed question, if a Municipality follows written policies that have been formally adopted or approved by the City Council, the charges are more likely to be deemed a permissible use of public funds.

⁴ For example, see *DOT v. Fortune Federal S&L*, 532 So. 2d 1267 (Fla. 1988).