

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY



November 28, 2016

Glenn Funk
Office of the District Attorney
222 Second Avenue North, Suite 500
Nashville, TN 37201

Dear General Funk:

Please find attached the final report on the Office of the District Attorney's use of Metro credit cards. This report explains the results of our review of delegated purchasing authority and VISA and MasterCard credit card transactions from July 1, 2012 through February 29, 2016. You previously reviewed and responded to the preliminary report. Your responses to the preliminary report have been incorporated into this final report.

We appreciate your cooperation and assistance during the review. If you have any questions, please call me at (615) 880-1035.

Sincerely,

Fred Adom, CPA, CGMA, CICA
Director, Office of Financial Accountability

cc: Michael Brook, Office of the District Attorney
Jim McDonnell, Office of the District Attorney
Talia Lomax-O'dneal, Director of Finance, Department of Finance
Gene Nolan, Deputy Director of Finance, Department of Finance
Kim McDoniel, Deputy Director of Finance, Department of Finance
Phil Carr, Chief of Accounts, Department of Finance
Tom Eddlemon, Metropolitan Treasurer, Department of Finance
Jeff Gossage, Purchasing Agent, Department of Finance
Mark Swann, Metropolitan Auditor, Office of Internal Audit

Kevin Brown, CMFO, CICA, CFE, Office of Financial Accountability
Essie Robertson, CPA, CMFO, CICA, Office of Financial Accountability
Matthew Fouad, Office of Financial Accountability



◆ Monitoring Report of ◆

Office of the District Attorney

Conducted by



Office of Financial Accountability

November 28, 2016

MONITORING REPORT

TABLE OF CONTENTS

INTRODUCTION..... 5

OBJECTIVES, SCOPE AND METHODOLOGY 6

RESULTS OF REVIEW..... 7

FINDINGS AND RECOMMENDATIONS.....8

OTHER OBSERVATION.....10

INTRODUCTION

The Office of Financial Accountability (hereinafter referred to as "OFA") has completed a credit card review of the Office of the District Attorney's compliance with the *Metro Code of Law Title 4, Procurement Code* and compliance with the *Metro Finance Policy #19: Credit Card Policy*.

A review is substantially less in scope than an audit. The OFA did not audit the financial statements and, accordingly, does not express an opinion or any assurances regarding the financial statements of Metro or any of its component units.

The OFA is responsible for the internal monitoring of Metro agencies that receive federal and state financial assistance, including cooperative agreements and non-profit organizations that receive appropriations from Metro government. The OFA also conducts prompt pay performance, delegated purchasing authority, and procurement reviews, including credit card usage by Metro departments. In summary, any agreement that imposes performance and/or financial requirements on Metro government is subject to review by the OFA.

This review was conducted as part of the comprehensive review of credit cards use by all Metro Departments as requested by the Metro Council. At the conclusion of the review of all applicable Metro departments, the OFA will compile a summary report of the results of the review of all departments.

Agency Background

The Office of the District Attorney's mission is "to investigate and prosecute all criminal offenses that occur within Davidson County where there is sufficient evidence to warrant conviction. All prosecutions are designed to punish offenders, incapacitate violent and repeat criminals, and generally to deter future criminal activity. Additionally, the office is committed to treating victims and witnesses with dignity." Per the Fiscal Year 2016 Operating Budget Book, the Office of the District Attorney had 96 total budgeted positions and an operating budget of \$8,265,200.00.

OBJECTIVES, SCOPE AND METHODOLOGY

The scope of the credit card review period covered July 1, 2012 through February 29, 2016. There were three (3) cardholders in the Office of the District Attorney during the review period. See the table below for details:

Cardholder Name	Number of Transactions	Dollar Value of Transactions
Cardholder A	106	\$19,054.37
Cardholder B	455	\$106,641.38
Cardholder C	600	\$132,562.07
Totals	1,161	\$258,257.82

The Office of Financial Accountability reviewed 122 transactions (11%) of the credit card activity.

The objectives of our review were:

- 1) To determine the agency's compliance with M.C.L. Title 4, Procurement Code.
- 2) To determine the agency's compliance with Metro Finance Policy #19: Credit Cards.
- 3) To determine whether credit card expenditures were allowable and necessary.
- 4) To determine whether purchasing transactions were authorized and sufficiently documented.
- 5) To determine whether the agency has adequate and effective internal controls over its credit card program.

Our review procedures included meeting with agency management and staff, reviewing internal controls over credit card use, and examining certain financial records and supporting documentation to ensure compliance with requirements set forth in Metro's official procurement policies. Specific procedures included:

- Comparing credit card charges with original receipts, supporting documentation and travel authorizations.
- Reviewing supporting documentation for accuracy, necessity and reasonableness.
- Identifying split purchases and unauthorized or fraudulent transactions.
- Investigating discrepancies and following up as necessary.

RESULTS OF REVIEW

Overall Findings and Major Review Highlights

Our review revealed the following issues of non-compliance with M.C.L. Title 4, Procurement Code and Metro Finance Policy #19: Credit Card. The Office of the District Attorney:

1. Used cards for contracted purchases,
2. Failed to exercise exempt status by improperly paying sales tax.

The section that follows provides more detailed information for the items listed above. Management is given an opportunity to respond to the findings.

FINDINGS AND RECOMMENDATIONS

1. Used cards for contracted purchases.

FINDING

The Office of the District Attorney utilized Metro credit cards to make six (6) transactions for the purchase of office supplies. While the transactions were a legitimate business expense, the purchase of office supplies with a metro credit card is a violation of metro policy. The Procurement Division within the Finance Department has secured a contract with a Vendor for office supplies at a discounted rate. Therefore, while the purchasing of office supplies, off metro contract, is for legitimate business, it is considered wasteful in the aspect that the department is failing to take advantage of the discounted pricing that is available through the Metro contract. Per *Metro Finance Policy #19: Credit Cards 1) General Policies a) "the credit card can be used to purchase and make payment for approved transactions only including travel and related cost (hotels, car rentals, food, and ancillary items), petty cash type purchases, conference registrations, subscriptions and emergency purchases (as defined by the Purchasing Agent). **Note: All purchases are subject to established purchasing regulations. The credit card is not a payment/purchasing card and is not to be used for routine procurements from contracted suppliers."***

RECOMMENDATION

The Office of the District Attorney should ensure that needed office supplies are purchased from the Metro contracted vendor and should ensure that payment for items purchased off a Metro contract are submitted through Metro's accounts payable process. In the extraordinary circumstances that would necessitate the Office of the District Attorney to purchase off contract, the Office of the District Attorney should ensure compliance with the guidelines requirements for Emergency Purchases as required by M.C.L. 4.12.070 Emergency procurements.

MANAGEMENT'S COMMENTS

We concur in part.

While every effort is made to make needed office supply purchases from Metro contracted vendors some purchases are made related to operational/investigative activities. All six (6) Office Depot purchases were made as follows. Items # B1, and #B2 were for trial activities. Items # B3, and B4 were for IBM typewriter ribbons that were sub-standard from Metro's contracted vendors. Items # B5, and B6 were field purchases of hard drives (HD) to make forensic HD copies in a Middle Tennessee Drug Task Force (MTDTF) investigation.

2. Failed to exercise exempt status by improperly paying sales tax.

FINDING

The Office of the District Attorney improperly paid sales tax on three (3) transactions totaling \$114.30. Per *Metro Finance Policy #19 3) Expectations of Cardholders d) "Cardholders are also responsible for identifying and disputing erroneous charges, including Tennessee sales tax charges, to their assigned cards. It is the responsibility of the cardholder to dispute the charges as specified in the cardholder agreement."* In addition, *e) "Cardholders should not pay Tennessee sales tax. It is the cardholder's responsibility to dispute Tennessee sales tax charges."*

RECOMMENDATION

The Office of the District Attorney should ensure that Metro Cardholders review and dispute charges associated with Tennessee sales tax. The Office of the District Attorney should also ensure that Metro credit card cardholders adhere to Metro Finance Policy #19.

MANAGEMENT'S COMMENTS

We concur in part.

While every effort is made to avoid paying Tennessee Sales Tax under Metro's exempt status certain World Wide Web (WWW) and expedited expenses are problematic. Item #C1 was the online purchase of a replacement media device needed for trial coverage where tax exempt purchases were not supported. Item #C2 was an in office Panera Bread "working lunch" with the Vanderbilt University legal team with regard to the Vanderbilt Rape case prosecution. Item #3 was an online purchase of two (2) CD/DVD duplicators where tax exempt purchases were not supported but we submitted Metro's tax certificate for future refund related to the transaction.

OTHER OBSERVATION

The OFA noted that the Office of the District Attorney General a State agency was issued Metro credit cards by the Treasury Division without receiving a Notice of Delegation of Purchasing Agent's Authority from the Procurement Division of Metro Finance. Without a Notice of Delegation of Purchasing Agent's Authority, Metro departments are not permitted to make purchases without the assistance of the Procurement Division of the Metro Finance Department.

The OFA recommends that the Metro Treasury Division work with the Procurement Division and the Office of the District Attorney General to secure the delegated authority for the DA's office.