



# Dave Yost • Auditor of State

## **Auditor of State Bulletin 2016-004** *Supersedes Bulletin 2016-003*

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**DATE ISSUED:** September 13, 2016

**TO:** All AOS Financial Audit Staff  
All Public Offices, Agencies, Boards, and Commissions  
Colleges and Universities  
Independent Public Accountants

**FROM:** Dave Yost, Auditor of State

**SUBJECT:** Credit Card Cash Withdrawals and Credit Card Controls  
in General

### Introduction

This is an amended advisory directed to public offices<sup>1</sup> and public officials<sup>2</sup> subject to the general laws of Ohio, including the provisions of Ohio Revised Code Sections (R.C.) 301.27, R.C. 505.28, R.C. 505.29, R.C. 505.64, R.C.1515.093, R.C. 3313.291 and R.C. 302.01, and subject to Section 12 U.S.C. 4007(2)(b). This amended advisory is provided to afford guidance to covered entities throughout the State and to Auditor of State audit staff and independent auditors who engage in audits of public entities. This advisory supersedes Bulletin 2016-003.

### Policy Considerations

Cash is the monetary medium of choice for drug dealers and criminals for a reason: controls are difficult and tracing transactions is nearly impossible. For this reason, public transactions in cash are strongly disfavored.

With the widespread use of credit cards and similar electronic instruments, the Auditor of State has noted public entities using them for cash withdrawals. Very few reasons exist for a public entity to use cash, and the Auditor of State will view such transactions with a rebuttable presumption that cash withdrawals are not for a public purpose.

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<sup>1</sup> R. C. 117.01(D)

<sup>2</sup> R. C. 2921.01

This bulletin is designed to outline how a public entity should approach designing controls for the use of credit cards for cash withdrawals in those extraordinary situations where it is absolutely necessary.

Many public entities, but not all, are authorized to use credit cards under Ohio law, and legal requirements vary between entities. (For purposes of this discussion, "credit card" includes credit card, debit card, procurement card, payment card, fleet card or similar device.)

Ohio law does NOT explicitly authorize a public entity to use a credit card to withdraw cash from a financial transaction device or automated teller machine (hereinafter, ATM), or to obtain cash (back) in a credit card transaction. The first question to be answered is whether cash withdrawals are "necessarily implied" from other powers that are explicitly granted to the public entity. See *State ex rel. A. Bentley & Sons Co. v. Pierce*, 96 Ohio St. 44, 47, 117 N.E. 6, 7 (1917); *City of Youngstown v. Craver*, 127 Ohio St. 195, 201, 187 N.E. 715, 717 (1933).

If the governing body of the public entity determines that cash withdrawals are necessarily implied from its other powers, that determination should be memorialized by specific legislative action (or where applicable, administrative action). The action should explicitly authorize the cash withdrawals and reference the entities credit card policy -- see "Credit Card Policy" below for further detail.

AOS will presume that a cash withdrawal which has not been properly authorized was not made for a proper public purpose. Such presumption is rebuttable on the basis of a factual analysis.

**NOTE: Any unauthorized cash withdrawal transaction may result in a non-compliance citation and/or finding for recovery, including joint and several liabilities, against the person or persons responsible for such misuse.<sup>3</sup> Further, each such act may constitute a violation of Section 2913.21 of the Ohio Revised Code, "Misuse of a Credit Card".**

### Discussion

When a public entity authorizes issuance of a credit card,<sup>4</sup> use of the card is for the efficient acquisition of goods or services solely for the benefit of the operation of the public entity. A governing framework of policies and procedures providing adequate tracking and control must be adopted and consistently utilized. Ohio Administrative Code (OAC) Section 117-2-01 provides that:

#### 117-2-01 Internal controls.

(A) All public officials are responsible for the design and operation of a system of internal control that is adequate to provide reasonable assurance regarding the achievement of objectives for their respective public offices in certain categories.

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<sup>3</sup> R. C. 117.28

<sup>4</sup> The credit cards referenced here fall under the Electronic Funds Transfer Act, 15 U.S.C. § 1601, et seq.

(B) "Internal control" means a process affected (sic) by those charged with governance, management, and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- (1) Reliability of financial reporting;
- (2) Effectiveness and efficiency of operations;
- (3) Compliance with applicable laws and regulations; and
- (4) Safeguarding of assets against unauthorized acquisition, use or disposition.

Absent proper authorization, there will be a presumption of non-compliance with OAC 117-2-01(A) and (B).

### Credit Card Policy

Cash withdrawals are a tiny subset of all credit card activity, and require specific controls. These specific controls are in addition to the controls which should govern credit card use generally.

If an entity has authority to secure and to use a credit card, the governing body must create and adopt a credit card use policy to strengthen and to maintain internal controls over credit card transactions. The absence of an appropriate policy and of thorough monitoring of this activity increases the risk of unauthorized and/or otherwise improper expenditures that do not further the public purpose of the entity and are likely to result in audit findings or other sanctions.

This policy should include, at a minimum, the following provisions:

- Designation of the person or persons who are empowered to authorize and approve credit card transactions;
- The names and job titles of officers or employees who are authorized to use cards;
- Limits on the total dollar amount each authorized card user may incur as part of any individual transaction;
- A clear indication that the credit card may be used only for official business and for the benefit of the public entity;
- The disciplinary action or range of disciplinary actions which may be taken in the instances in which the credit card is utilized for other than a proper public expenditure/purpose or in violation of the entity's policies and procedures;
- If cash withdrawals are to be permitted, a comprehensive indication of the circumstances under which they are to be permitted and limits as to amounts of such withdrawals;
- A thorough listing of the documents which are to be created or secured, and maintained so as to create and to preserve an appropriate audit trail, and
- A statement signed by each potential card user acknowledging that he/she has read the credit card policy, understands it, and agrees to abide by it.

Further, the entity should consider inclusion in its policy of a definition of expenditures that are strictly prohibited (e.g. entertainment, alcoholic beverages, personal services, cash advances, etc.).

Conclusion

The use of credit cards maintained by public entities, although permitted in many instances under Ohio law, is particularly subject to potential abuse. The likelihood of such incidences is exacerbated when the transactions involve cash withdrawals. All public entities, therefore, should exercise the utmost care and diligence in authorizing and permitting credit card usage, particularly when cash withdrawals are involved. In addition, all public entities should develop, maintain, and strictly apply appropriate authorization and tracking controls incident to credit card usage, again with particular emphasis on cash withdrawals.

If you have any questions regarding this Bulletin please contact the AOS Center for Audit Excellence at (800) 282-0370 or the Legal Division at (800) 282-0370 or (614) 466-2929.

A handwritten signature in blue ink that reads "Dave Yost". The signature is fluid and cursive, with the first name "Dave" and last name "Yost" clearly legible.

**Dave Yost**  
**Auditor of State**