



COUNTY ADVISORY BULLETIN

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HOUSE BILL 33 CHANGES TO COUNTY CREDIT CARD LAW

Background

House Bill 33, the state operating budget bill, revises Ohio law governing the use of county credit cards, effective October 3, 2023 (R.C. 301.27). This memorandum describes how HB 33 changes the law and recommends basic elements that should be contained in a credit card policy. The amendment allows credit cards to be used for any work-related expense that serves a public purpose, subject to the availability of sufficient funds and conformity with the county's policies and procedures. The change was made in response to the realities of 21st Century commerce in which many vendors will only accept online payments. The new law provides an opportunity to improve flexibility and efficiency in county purchasing operations. Nevertheless, the removal of the list of specific allowable expense makes it imperative for county commissioners, working closely with the county auditor, to develop detailed policies and procedures to monitor credit card use. Boards of county commissioners will continue to control the issuance of cards and to determine how they are used. It should be noted that an online finance account with a vendor may be the functional equivalent of a credit card even if a physical card has not been issued.

County Credit Cards

Under prior law, counties could only use a credit card to make purchases of specific work-related goods and services identified in the Revised Code. HB 33 removes this list, and allows credit cards to be used for any purchase that satisfies all of the following:

- It is for a work-related expense.
- The purchase serves a public purpose.
- The debt incurred as a result of the purchase is payable with available moneys appropriated to a specific appropriation line item that is appropriate for the purchase.

- The purchase complies with R.C. 301.27 and with the policy adopted by the board of county commissioners.

In order to use a credit card, the law requires a board of county commissioners, in consultation with the county auditor, to adopt a policy by resolution regarding the use of a credit card by the board of commissioners or by the office, officer, or employee of any other appointing authority. No action is necessary if the county does not wish to use a credit card. The board must deliver a copy of the policy to the county auditor. The policy must include all of the following:

- The procedure for submitting itemized receipts for purchases to the county auditor. It is a specific legal requirement that receipts must be submitted.
- Any other provision regarding the use of county credit cards so long as the provision does not conflict with state law.

In order to use a credit card, a county appointing authority must apply to the board of county commissioners for authorization to have an officer or employee of the appointing authority use the card. Under continuing law, the request must state whether the card is to be issued in the name of the office only (which is not recommended), or whether the card will include the name of a specified officer or employee of the appointing authority. The appointing authority must notify, and update as necessary, the county auditor and the board of county commissioners regarding the specific individuals authorized to use cards.

An individual or appointing authority is liable for unauthorized use of a card that conflicts with state law or the policy adopted by the board of commissioners. Liability includes finance charges, late fees or late penalties, and sales tax unless approved by the board of county commissioners. Unauthorized expenditure also includes using a card for work-related expenses that were not approved, or an individual using a card not assigned to that individual. HB 33 clarifies that when an unauthorized expenditure takes place, the employee or officer responsible for misuse is required to repay the entire amount of the unauthorized purchase. If the card is issued in the name of the appointing authority, the appointing authority would be liable. Continuing law allows an appointing authority to request that the board of county commissioners approve an unauthorized expenditure after the fact if the auditor certifies that the sum of money is in the treasury or in the process of collection to the credit of the appropriation line item.

Prior Approval of Monthly Spending Estimates

HB 33 maintains the two procedures under continuing law for approving monthly or period purchasing limits for credit cards. Under the standard method, the officer or employee with a card must submit an estimate of work-related expenses and appropriation line items from which those expenditures are to be made to the board of commissioners. The board then may revise the estimate and certify an amount to the county auditor. If the county auditor certifies that the amount is in the treasury and free from obligations, the board then authorizes the officer or employee to incur debt up to the amount.

The alternate procedure permits the board of commissioners to adopt a resolution authorizing an officer or employee of an appointing authority to use a county credit card without submitting an estimate. The auditor must be notified before adopting the resolution. Use of a credit card under the alternate procedure is limited to the amount appropriated and encumbered in a specific appropriation line item for the permitted use designated in the authorizing resolution, or in the case of a resolution that authorizes use of a specific card, for each of the permitted uses listed in the resolution to the extent that sufficient unencumbered funds exist in the specific appropriation line item.

HB 33 clarifies that a new resolution is not necessary when a new credit card number is issued due to fraudulent use of the specified card.

Recommended Elements of a County Credit Card Policy

As noted above, in order to use a credit card, a county board of commissioners must adopt a credit card policy that contains a procedure for submitting itemized receipts for purchases to the county auditor. The policy may also contain any other requirements that do not conflict with state law. It can be expected that annual financial audits will pay close attention to credit card usage and whether these procedures have been followed. The following are some recommended elements of a credit card policy:¹

- Designation of the persons in each county office or department who are empowered to authorize and approve credit card transactions. Transactions should be reviewed by a departmental supervisor before payment is authorized.
- The names and job titles of officers or employees who are authorized to use cards. (Note: it may be impractical for large counties to list individuals in the general policy resolution itself, but a secondary resolution may be adopted for each county department or office holder.) The county administrator or other key staff person to the board of county commissioners, and county auditor, should maintain an official list and conduct a periodic review individuals using cards and the levels of actual activity on each card.
- Limits on the total dollar amount each authorized card user may incur as part of any individual transaction, credit limits for each card, and limits on the combined total authorized credit amount for each county official or department.
- A clear indication that the credit card may be used only for official business and for the benefit of the county, including a clear statement about how to deal with any rewards or benefits that accrue from use of the card.

¹ These recommendations are derived from the Ohio Auditor of State Bulletin [2016-003](#), "Credit Card Cash Withdrawals and Credit Card Controls in General"; Municipal Research and Services Center of Washington (MRSC), "[Credit Card Use Policies](#)"; Office of the Washington State Auditor, "[Best Practices for Credit Card Programs](#)"; Indiana State Board of Accounts, "[Best Practices: Credit Card Purchases](#)."

- Designation of acceptable items or services to be purchased with a card, and a clear designation of items that are strictly prohibited (e.g., alcohol, entertainment, or cash advances). Note that the county may choose to maintain the same list of allowable items that were delineated under prior law, but they must be listed specifically.
- 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 county's policies and procedures. This should include circumstances under which the county commissioners may suspend or revoke authorization to use a card.
- Generally, cash withdrawals should be prohibited. If cash withdrawals are to be permitted in exceptional circumstances, the policy should make it clear that they must receive explicit prior authorization. Auditor of State Bulletin 2016-004 recommends that every cash withdrawal should be authorized by a specific official legislative action.
- Procedures for timely submission of receipts to the county auditor, and a thorough listing of the documents which are to be created, secured, and maintained so as to create and preserve an appropriate audit trail. The auditor should receive an original copy of all credit card statements directly from the bank.
- A clear declaration of whether the card may be used when a vendor requires the payment of an additional fee for credit card use. If such use is permitted, the policy should indicate the circumstances under which fees are acceptable to the county or state that specific authorization is required by resolution.
- 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, including the reimbursement of any sales tax, finance charges, or late fees that are not waived by the board of commissioners. It is advisable to explicitly reference the county's travel policy and its definitions of non-reimbursable expenses.

It is highly recommended that the county establish a mandatory training program for employees to cover credit card policies, procedures, and overall security, and the county purchasing process in general. The county auditor, county administrator, or other key staff persons to the board of county commissioners should conduct an annual inventory and review of card usage. Cards that are seldom or never used should be considered for cancellation. Cards that are used to make routine, recurring purchases from the same vendor(s) might be replaced with a purchasing card authorized by ORC 301.29. Purchasing cards and credits may be difficult to distinguish, but the presence of a purchase order and other workflow at the county when required under its own internal policies does not change the nature of the card from a credit card to a procurement card, unless the financial institution issuing the card builds the internal policy of the county into the terms of the approved uses of the card.

It should be noted that counties are not permitted to utilize debit cards, except for law enforcement purposes (R.C. 9.22).

Counties should read the entirety of the statute, R.C. 301.27, before making decisions with regard to credit card policies.

Credit Cards and Competitive Bidding

Credit cards are designed to facilitate payment for small dollar purchases. Generally, authorized credit limits on each card should be well below the \$75,000 cost threshold for competitive bidding established by HB 33. There is a risk, however, that repeated purchases of the same item or service from a single vendor over the course of the year may cross this threshold and raise suspicion that the county is attempting to circumvent state competitive bidding requirements. It should be kept in mind that competitive bidding law prohibits subdividing a purchase, lease, project, or other transaction into component parts, separate projects, or separate items of work in order to avoid its requirements (see R.C. 307.86 and 307.861).

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