

**Purchasing Card and Credit Card Ordinance QUITMAN County Elected Officials**

**WHEREAS**, effective January 1, 2016, O.C.G.A. § 36-80-24 prohibits county elected officials from using government purchasing cards and government credit cards unless the county governing authority authorizes the issuance of such cards by public vote and has promulgated specific policies regarding the use of such cards;

**WHEREAS**, the Georgetown-Quitman County Board of Commissioners promulgates this ordinance as the official policy of Quitman County.

**NOW, THEREFORE, BE IT ORDAINED** that the following ordinance be adopted by the Georgetown-Quitman County Board of Commissioners to be effective November 10, 2015.<sup>1</sup>

**I. Intent and Scope**

This ordinance is intended to comply with the policy requirements of O.C.G.A. § 36-80-24 regarding the use of County issued government purchasing cards and credit cards.

**II. Definitions**

A. “Authorized elected official” means an elected official designated by public vote of the Board of Commissioners to receive a county issued government purchasing card or credit card.

B. “Card Administrator” means the purchasing card and credit card administrator designated by the Georgetown-Quitman County Board of Commissioners.<sup>2</sup>

C. “County” means Georgetown-Quitman County and/or the Board of Commissioners

D. “County purchase card,” “county p-card” or “county credit card” means a financial transaction card issued by any business organization, financial institution, or any duly authorized agent of such organization or institution, used by a County official to purchase goods, services and other things of value on behalf of the County.

E. “Financial transaction card” means an instrument or device as the term is defined in O.C.G.A. § 16-9-30(5).

F. “User agreement” means the required agreement between the Board of Commissioners and the authorized elected officials which restricts the use of a county purchasing card or credit card.<sup>3</sup>

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<sup>1</sup> If elected officials currently use county purchasing or credit cards, this ordinance should be effective no later than January 1, 2016.

<sup>2</sup> The board of commissioners is required by O.C.G.A. § 36-80-24(c)(6) to designate a purchasing card or credit card administrator.

<sup>3</sup> See, O.C.G.A. § 36-80-24(c)(2).

### III. Designated Elected Officials

The Georgetown-Quitman County Board of Commissioners (“County”), in its discretion, may authorize specific county elected officials to use a county purchasing card or credit card by adoption of a resolution in a public meeting.<sup>4</sup>

No authorized elected official may use a county purchasing card or credit card until and unless he or she has executed the County’s purchasing card and credit card user agreement.<sup>5</sup>

The County will not make payments to any business organization, financial institution, or any duly authorized agent of such organization or institution, for amounts charged by an elected official to any purchasing cards or credit cards that are not issued pursuant to this ordinance or for any purchases that are not authorized by this ordinance.

### IV. Card Administrator

The Board of Commissioners shall designate a County purchasing card and credit card administrator. The responsibilities of the Card Administrator include:<sup>6</sup>

- a. Manage County issued purchasing cards and credit cards.
- b. Serve as the main point of contact for all County purchasing card and credit card issues.
- c. Serve as liaison to the elected officials authorized to use a purchasing card or credit card and their staff, as well as to the issuer of the purchasing card or credit card.
- d. Provide training on card policies and procedures to the elected officials authorized to use a purchasing card or credit card and their staff.
- e. Develop internal procedures to ensure timely payment of cards.
- f. Assist authorized elected officials to dispute transactions when necessary.
- g. Establish internal procedures to ensure compliance with this ordinance, County procurement ordinances and policies, County purchasing card and credit card user agreements, applicable agreements with the business organization, financial institution, or any duly authorized agent of such organization or institution, issuing card, and state law, specifically, O.C.G.A. §§ 16-9-37 and 36-80-24.
- h. Document internal controls, audits and other measures to prevent and detect misuse or abuse of the cards.
- i. Audit and reconcile transactions monthly.
- j. Maintain records for at least seven years or as otherwise provided by the County’s record retention policy.<sup>7</sup>

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<sup>4</sup> O.C.G.A. § 36-80-24(c) requires that the board of commissioners designates the elected officials authorized to use a county purchasing or credit card through a public vote.

<sup>5</sup> O.C.G.A. § 36-80-24(c)(2).

<sup>6</sup> The board of commissioners is required to designate a card administrator, but the duties of the card administrator are not specified by law. These are sample duties of a card administrator. Each county should tailor the duties of their card administrator to fit within the structure of its government and the requirements of the organization or institution issuing the cards to the county.

<sup>7</sup> Unless the county has adopted its own record retention schedule, it is subject to the [Retention Schedule for Local Government Paper and Electronic Records](#) adopted by the State Records

## V. Use of Cards

- A. **Authorized Purchases.**<sup>8</sup> County purchase cards and credit cards may be used to purchase goods and services directly related to the public duties of the authorized elected official only. All purchases are subject to the terms of this ordinance, the County purchasing card and credit card user agreement, county procurement policies and ordinances, and the adopted budget.

Only authorized elected officials may use a County purchase card or credit card for purchases or payments. The cards, and use of the cards, are not transferrable to employees. The authorized elected official shall use care to ensure that others do not have access to the card account number, expiration date and security code.

Unless otherwise approved by the governing authority or established in the County purchasing card and credit card user agreement, the transaction limits<sup>9</sup> are as follows:

Per Transaction: \$500.00

Per Month: \$5000.00

- B. **Unauthorized Purchases.**<sup>10</sup> County purchasing cards and credit cards shall not be used for goods and services not directly related to the official responsibilities of the authorized elected official. Additionally, cards shall not be used to avoid compliance with the County's purchasing ordinances and procedures, to purchase goods and services that are not approved in the County's budget, to purchase goods and services exceeding the per transaction or per month limit, or to make purchases not in compliance with the County purchasing card and credit card user agreement.
- C. **Receipts and Documentation.** Receipts, invoices and other supporting documentation of all purchases made with a county purchasing card or credit card shall be obtained and maintained by the authorized county elected official for five years or as

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Committee. The Retention Schedule for Local Government Paper and Electronic Records requires records documenting administration of credit cards to be kept for at least seven years.

<sup>8</sup> O.C.G.A. §§ 16-9-37(b) and 36-80-24(c)(4) requires that the county describe in writing the types of purchases that are "authorized." The law only proscribes that the purchases must be for items and services directly related to the elected officials public duties and that they comply with the county's policy and user agreement. O.C.G.A. § 36-80-24(a) and (c). This paragraph is a sample of what could be included as authorized purchases. Each county should tailor this provision to meet the needs of its government.

<sup>9</sup> O.C.G.A. §§ 16-9-37(b) and 36-80-24(c)(3) require that the county adopt written transaction limits. The transaction limits could be a maximum dollar amount or a maximum number of transactions per day, per month, per year.

<sup>10</sup> O.C.G.A. § 36-80-24(c)(5) requires that the county describe the types of purchases that are "not authorized." This paragraph is a sample of what could be included as unauthorized purchases. Each county should tailor this provision to meet the needs of its government. Specific consideration should be given to the county's travel policies, reimbursement policies, cash advances, entertainment, alcohol, tobacco, fuel, software, computers, apps, gift cards, etc.

otherwise provided by the County's record retention policy.<sup>11</sup> If an original or duplicate cannot be produced, a sworn affidavit of the authorized elected official may be substituted. The documentation must include the supplier or merchant information (i.e., name and location), quantity, description, unit price, total price, price paid without sales tax and an explanation of the purchase sufficient to show that the expense was in the performance of official County duties.

D. **Public Records.** All receipt and other documentation of purchases are public records and subject to the requirements of O.C.G.A. § 50-18-70 *et seq.*<sup>12</sup>

VI. **Review of Purchases and Audit.**<sup>13</sup> Proper documentation of purchases, internal controls and other measures prevent and allow detection to misuse or abuse of County issued purchase cards and credit cards. Authorized elected officials and staff that process payments under this program shall cooperate and comply with the procedures established by the County.

A. **Review of Purchases.**<sup>14</sup> All purchases shall be reviewed according to the following procedure: Approval of purchases by Elected official; Approval by Card Administrator that the Elected official has approved purchase.

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B. **Audits.** The Card Administrator<sup>15</sup> shall perform an annual review of the card program to ensure adequacy of internal policies and procedures, cardholder spending limits, monthly reconciliation procedures and documentation for transactions. Elected officials and staff shall cooperate with such review.

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<sup>11</sup> Unless the county has adopted its own record retention schedule, it is subject to the [Retention Schedule for Local Government Paper and Electronic Records](#) adopted by the State Records Committee. Accounts payable files must be kept for five years.

<sup>12</sup> See, O.C.G.A. § 36-80-24(b). Any official that destroys records for the purpose of preventing their disclosure can be prosecuted for a felony punishable by two to ten years in a state prison. O.C.G.A. § 45-11-1.

<sup>13</sup> A process for auditing and review must be developed. O.C.G.A. § 36-80-24(c)(7).

<sup>14</sup> O.C.G.A. § 36-80-24(c)(7) requires the county to establish a procedure where purchases are reviewed. To ensure timely and proper payment by the county of the charges each month, the county needs to establish a procedure for the elected officials to turn in documentation to the card program administrator or other person processing accounts payable for the county.

<sup>15</sup> The law requires an audit and review of purchases made with a p-card or credit card. The law does not specify who performs the audit. Depending upon whether the card program administrator has a card, the county may wish to appoint another person or outside auditor to audit the program.

**VII. Violations.<sup>16</sup>**

- a. An elected official shall reimburse the County for any purchases made with a County issued purchase card or credit card in violation of this ordinance or the user agreement.
- b. In the discretion of the county governing authority, failure to comply with the procedures outlined in this ordinance may result in:
  - i. A warning;
  - ii. Suspension of the elected official's authority to use a County purchase card or credit card; or
  - iii. Revocation of the elected official's authority to use a County i purchase card or credit card.
- c. Nothing in this ordinance shall preclude the county governing authority from referring misuse of a purchase card or credit card for prosecution to the appropriate authorities.

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<sup>16</sup> O.C.G.A. § 36-80-24(c)(8) requires the county to establish a procedure to deal with purchase card and credit card policy violations, including revoking card privileges. Some policies allow for small infractions to result in a warning, while larger or multiple infractions to result in suspension or termination of p-card or credit card privileges.

## **Relevant Code Sections**

### **O.C.G.A. § 16-9-30**

As used in this article, the term:

- (1) "Acquirer" means a business organization, government, financial institution, or an agent of a business organization, government, or financial institution that authorizes a merchant to accept payment by financial transaction card for money, goods, services, or anything else of value.
- (2) "Automated banking device" means any machine which when properly activated by a financial transaction card and personal identification code may be used for any of the purposes for which a financial transaction card may be used.
- (3) "Cardholder" means the person, government, or organization to whom or for whose benefit the financial transaction card is issued by an issuer.
- (4) "Expired financial transaction card" means a financial transaction card which is no longer valid because the term for which it was issued has elapsed.
- (5) "Financial transaction card" or "FTC" means any instrument or device, whether known as a credit card, credit plate, bank services card, banking card, check guarantee card, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder:
  - (A) In obtaining money, goods, services, or anything else of value;
  - (B) In certifying or guaranteeing to a person or business the availability to the cardholder of funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of such person or business; or
  - (C) In providing the cardholder access to a demand deposit account, savings account, or time deposit account for the purpose of:
    - (i) Making deposits of money or checks therein;
    - (ii) Withdrawing funds in the form of money, money orders, or traveler's checks therefrom;
    - (iii) Transferring funds from any demand deposit account, savings account, or time deposit account to any other demand deposit account, savings account, or time deposit account;
    - (iv) Transferring funds from any demand deposit account, savings account, or time deposit account to any credit card accounts, overdraft privilege accounts, loan accounts, or any other credit accounts in full or partial satisfaction of any outstanding balance owed existing therein;
    - (v) For the purchase of goods, services, or anything else of value; or
    - (vi) Obtaining information pertaining to any demand deposit account, savings account, or time deposit account.

(5.1) "Financial transaction card account number" means a number, numerical code, alphabetical code, or alphanumeric code assigned by the issuer to a particular financial transaction card and which identifies the cardholder's account with the issuer.

(5.2) "Government" means:

(A) Every state department, agency, board, bureau, commission, and authority;

(B) Every county, municipal corporation, school system, or other political subdivision of this state;

(C) Every department, agency, board, bureau, commission, authority, or similar body of each such county, municipal corporation, school system, or other political subdivision of this state; and

(D) Every city, county, regional, or other authority established pursuant to the laws of this state.

(6) "Issuer" means the business organization or financial institution or its duly authorized agent which issues a financial transaction card.

(7) "Personal identification code" means a numeric or alphabetical code, signature, photograph, fingerprint, or any other means of electronic or mechanical confirmation used by the cardholder of a financial transaction card to permit authorized electronic use of that financial transaction card.

(8) "Presenting" means those actions taken by a cardholder or any person to introduce a financial transaction card into an automated banking device with or without utilization of a personal identification code or merely displaying or showing, with intent to defraud, a financial transaction card to the issuer or to any person or organization providing money, goods, services, or anything else of value or to any other entity.

(8.1) "Purchasing card," "PCard," or "P-Card" means a type of financial transaction card allowing persons, governments, or business organizations to use financial transaction infrastructure.

(9) "Receives" or "receiving" means acquiring possession of or control of or accepting a financial transaction card as security for a loan.

(10) "Revoked financial transaction card" means a financial transaction card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

### **O.C.G.A. § 16-9-33**

(a) A person commits the offense of financial transaction card fraud when, with intent to defraud the issuer; a person or organization providing money, goods, services, or anything else of value; or any other person; or cardholder, such person:

(1) Uses for the purpose of obtaining money, goods, services, or anything else of value:

(A) A financial transaction card obtained or retained or which was received with knowledge that it was obtained or retained in violation of Code Section 16-9-31 or 16-9-32;

(B) A financial transaction card which he or she knows is forged, altered, expired, revoked, or was obtained as a result of a fraudulent application in violation of subsection (d) of this Code section; or

(C) The financial transaction card account number of a financial transaction card which he or she knows has not in fact been issued or is forged, altered, expired, revoked, or was obtained as a result of a fraudulent application in violation of subsection (d) of this Code section;

(2) Obtains money, goods, services, or anything else of value by:

(A) Representing without the consent of the cardholder that he or she is the holder of a specified card;

(B) Presenting the financial transaction card without the authorization or permission of the cardholder or issuer;

(C) Falsely representing that he or she is the holder of a card and such card has not in fact been issued; or

(D) Giving, orally or in writing, a financial transaction card account number to the provider of the money, goods, services, or other thing of value for billing purposes without the authorization or permission of the cardholder or issuer for such use;

(3) Obtains control over a financial transaction card as security for debt;

(4) Deposits into his or her account or any account by means of an automated banking device a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document not his or her lawful or legal property; or

(5) Receives money, goods, services, or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document so deposited was false, fictitious, forged, altered, or counterfeit or that the above-deposited item was not his lawful or legal property.

(b) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card by the cardholder or any agent or employee of such person commits the offense of financial transaction card fraud when, with intent to defraud the issuer or the cardholder, he or she:

(1) Furnishes money, goods, services, or anything else of value upon presentation of a financial transaction card obtained or retained in violation of Code Section 16-9-31 or a financial transaction card which he or she knows is forged, expired, or revoked;

(2) Alters a charge ticket or purchase ticket to reflect a larger amount than that approved by the cardholder; or



(3) Fails to furnish money, goods, services, or anything else of value which he or she represents in writing to the issuer that he or she has furnished.

(c) Conviction of the offense of financial transaction card fraud as provided in subsection (a) or (b) of this Code section is punishable as provided in subsection (a) of Code Section 16-9-38 if the value of all money, goods, services, and other things of value furnished in violation of this Code section or if the difference between the value actually furnished and the value represented to the issuer to have been furnished in violation of this Code section does not exceed \$100.00 in any six-month period. Conviction of the offense of financial transaction card fraud as provided in subsection (a) or (b) of this Code section is punishable as provided in subsection (b) of Code Section 16-9-38 if such value exceeds \$100.00 in any six-month period.

(d) A person commits the offense of financial transaction card fraud when, upon application for a financial transaction card to an issuer, he or she knowingly makes or causes to be made a false statement or report relative to his or her name, occupation, employer, financial condition, assets, or liabilities or willfully and substantially overvalues any assets or willfully omits or substantially undervalues any indebtedness for the purpose of influencing the issuer to issue a financial transaction card. Financial transaction card fraud as provided in this subsection is punishable as provided in subsection (b) of Code Section 16-9-38.

(e) A cardholder commits the offense of financial transaction card fraud when he or she willfully, knowingly, and with an intent to defraud the issuer; a person or organization providing money, goods, services, or anything else of value; or any other person submits verbally or in writing to the issuer or any other person any false notice or report of the theft, loss, disappearance, or nonreceipt of his or her financial transaction card and personal identification code. Conviction of the offense of financial transaction card fraud as provided in this subsection is punishable as provided in subsection (b) of Code Section 16-9-38.

(f) A person authorized by an acquirer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card or a financial transaction card account number by a cardholder or any agent or employee of such person, who, with intent to defraud the issuer, acquirer, or cardholder, remits to an issuer or acquirer, for payment, a financial transaction card record of a sale, which sale was not made by such person, agent, or employee, commits the offense of financial transaction card fraud. Conviction of the offense of financial transaction card fraud as provided in this subsection shall be punishable as provided in subsection (b) of Code Section 16-9-38.

(g) Reserved.

(h) For purposes of this Code section, revocation shall be construed to include either notice given in person or notice given in writing to the person to whom the financial transaction card and personal identification code was issued. Notice of revocation shall be immediate when notice is given in person. The sending of a notice in writing by registered or certified mail or statutory overnight delivery in the United States mail, duly stamped and addressed to such person at his or her last address known to the issuer, shall be prima-facie evidence that such notice was duly received after seven days from the date of deposit in the mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten days after mailing by registered or certified mail or statutory overnight delivery.

**O.C.G.A. § 16-9-37**

(a) Any person who has been issued or entrusted with a financial transaction card for specifically authorized purposes, provided such authorization is in writing stating a maximum amount charges that can be made with the financial transaction card, and who uses the financial transaction card in a manner and for purposes not authorized in order to obtain or purchase money, goods, services, or anything else of value shall be punished as provided in subsection (a) of Code Section 16-9-38.

(b) Any person who has been issued or entrusted with a financial transaction card by a government for specifically limited and specifically authorized purposes, provided such limitations and authorizations are in writing, and who uses the financial transaction card in a manner and for purposes not authorized shall be punished as provided in subsection (b) of Code Section 16-9-38.

**O.C.G.A. § 16-9-38**

(a) A person who is subject to the punishment and penalties of this subsection shall be fined not more than \$1,000.00 or imprisoned not less than one year nor more than two years, or both.

(b) A person subject to punishment under this subsection shall be guilty of a felony and shall be punished by a fine of not more than \$5,000.00 or imprisonment for not less than one year nor more than three years, or both.

**O.C.G.A. § 36-80-24**

(a) An elected official of a county, municipal corporation, local school system, or consolidated government shall be prohibited from the use of a government purchasing card or a government credit card unless:

(1) Such purchases are solely for items or services that directly relate to such official's public duties; and

(2) Such purchases are in accordance with guidelines adopted by the county, municipal corporation, local school system, or consolidated government.

(b) Documents related to such purchases incurred by such elected officials shall be available for public inspection.

(c) No such county, municipal corporation, local school system, or consolidated government shall issue government purchasing cards or government credit cards to elected officials on or after January 1, 2016, until the governing authority of such county, municipal corporation, local school system, or consolidated government, by public vote, has authorized such issuance and has promulgated specific policies regarding the use of such government purchasing cards or government credit cards for elected officials of such county, municipal corporation, local school system, or consolidated government. Such policies shall include the following:

- (1) Designation of officials who shall be authorized to be issued such government purchasing cards or government credit cards;
- (2) A requirement that, before being issued a government purchasing card or government credit card, authorized users shall sign and accept an agreement with the county, municipal corporation, local school system, or consolidated government issuing the government purchasing card or government credit card that such users will use such cards only in accordance with the policies of the issuing governmental entity;
- (3) Transaction limits for the use of such cards;
- (4) A description of purchases that shall be authorized for use of such cards;
- (5) A description of purchases that shall not be authorized for use of such cards;
- (6) Designation of a government purchasing card or government credit card administrator;
- (7) A process for auditing and reviewing purchases made with such cards; and
- (8) Procedures for addressing a violation of such purchasing card or credit card policies and imposing penalties for violations including, but not limited to, revocation of purchasing card or credit card privileges. Nothing in such procedures or any administrative action taken pursuant thereto shall preclude any other civil or criminal remedy under any other provision of law.