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Suite 500
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May 10, 2023

The Honorable John Monge
Mayor, City of North Saint Paul
2400 Margaret Street
North Saint Paul, Minnesota 55109

TRANSMITTED VIA ELECTRONIC MAIL

Dear Mayor Monge:

The Office of the State Auditor (OSA) received concerns about certain financial matters at the City of North Saint Paul (City). Specifically, the OSA received concerns about a finding in the annual audit of the City for the year ended December 31, 2020, in which the independent auditors found “[c]ertain credit card purchases in the current year lacked proper supporting documentation to be in compliance with city policy and statutory requirements.”¹

In response to the concerns, the OSA requested and reviewed certain City financial documents including credit card statements, receipts, and the City’s credit card policies, procedures, and use agreements for the period December 8, 2017, through May 7, 2021.² Through its review the OSA found:

- (1) 171 City credit card purchases totaling \$15,590 either were not supported with receipts or were not itemized as required by law.³
- (2) Certain City credit card purchases were for purposes that may not fall within the City’s legal authority to expend public funds. These included purchases through apple.com (such as a subscription to “Paramount+” and iCloud storage for a personal email account); cabinets for Saint Paul College;⁴ possible donations; flowers for funerals; and cakes for special events including employee recognition, “holiday” parties, and a “farewell” to the Mayor.
- (3) The apparent absence of certain internal controls and policies made it difficult for the City or outside examiners to determine whether some purchases made with the City credit cards were appropriate and authorized.

¹ See City of North St. Paul Corrective Action Plans and Summary Schedule of Prior Audit Findings Year Ended December 31, 2020. The OSA did not perform this audit.

² The City reported to the OSA that it made efforts to obtain receipts after it received the OSA’s request for documents that were not previously part of the City’s records. As a result, the City provided the OSA with more receipts than the City’s auditor’s had observed at the time of audit.

³ Of this total, 92 purchases totaling \$5,710.45 were made by the former City Manager, several at construction-related retailers.

⁴ The invoice documented Saint Paul College as the “customer.”

- a. City credit cards were used to facilitate purchases of certain electronic devices such as TVs, phones, phone accessories, iPads and other devices, without a policy or internal control for verifying or ensuring that the items were purchased for City use.
- b. Certain City credit card purchases were shipped to addresses that were not City buildings, including a storage locker, home addresses, and an unspecified “gifting address,” without a policy or internal control for verifying or ensuring that the purchases were made for City use and were received by the City.

While the OSA review was in progress, the City reported to the OSA that personnel had changed at the City. Specifically, the City has a new City Manager and a new Finance Director. In addition, certain Council members were newly elected to the City Council. The City reported to the OSA that it has been working with its City Attorney to resolve various concerns that have been brought to the City since the 2020 audit report was issued.

This letter communicates the OSA’s findings and recommendations based on our review of documents relating to the specific time period of December 8, 2017, to May 7, 2021.⁵ The OSA appreciates the City’s current and future-focused efforts to review and resolve concerns arising from that period, and we hope the information provided in this letter helps the City moving forward.

Discussion of Issues: Findings and Recommendations

1. City Credit Card Purchases Not Supported with Receipts or Itemized as Required by Law

Minnesota Law – Itemization of Claims

The Minnesota Legislature authorized cities to use credit cards by enacting Minn. Stat. § 471.382. This statute restricts the use of credit cards to purchases for the city. If a city officer or employee makes a purchase by credit card that is not approved by the city council, the officer or employee is personally liable for the amount of the purchase.⁶ “A Purchase by credit card must otherwise comply with all statutes, rules, or city ... policy applicable to city ... purchases.”⁷ For example, under Minnesota law, claims presented for payment must be in writing and itemized.⁸ Because monthly statements received from a credit card company lack sufficient detail to comply with the itemization requirement under Minn. Stat. § 412.271, subd. 2, invoices and receipts are needed to support credit card purchases.⁹ This requirement was included in the City’s Purchasing Policy (Purchasing Policy).¹⁰

⁵ This letter covers certain issues reviewed by the OSA. Nothing herein should be interpreted to imply the absence of other issues or approval of any other act or transaction.

⁶ Minn. Stat. § 471.382

⁷ *Id.*

⁸ See Minn. Stat. §§ 471.38, subd. 1 (home rule charter cities) & 412.271, subd. 2 (statutory cities).

⁹ Given the difficulty of discerning whether purchases at food establishments, hotels, big-box retailers, and online purchases are personal or business-related, itemization of such purchases is particularly important. In addition, listing only the credit card company on a claims list would identify the method of payment, but would not identify the vendors providing the goods and services, as required by law.

¹⁰ See North St. Paul Purchasing Policy Adopted on August 4, 2020, Appendix A: Credit Cards.

Purchasing Policy

The Purchasing Policy required City credit card holders to submit “detailed receipts...to the finance department...”¹¹ The policy also required department managers to “be responsible for ensuring receipts and invoices meet” the statutory requirement for written, itemized claims, “and provide them to the finance department for prompt payment of the credit card statement.”¹²

The Purchasing Policy stated, under “Detailed Receipts:”

- Any items that do not have a receipt will be the personal responsibility of the card user.
- Missing receipt affidavit must be signed by both the employee and department manager with a complete explanation of the expense and the reason for the missing receipt;
- Failure to complete affidavit will result in disciplinary action up to and including termination of employment[.]

OSA Findings

The OSA found, as the City’s auditors did, that a significant number of City purchases made with City-issued credit cards were not supported with receipts or itemized as required by Minnesota law and the City’s policy. These purchases appear to have been made by current and former City credit card holders, including City department managers. Due to the limited information the City provided the OSA for these purchases, the OSA cannot determine whether they were made for City purposes.

Recommendation

The OSA recommends that the City take steps to ensure compliance with Minnesota law and the Purchasing Policy by requiring itemized receipts for all credit card purchases.¹³ Additionally, the City may want to do its own review of these purchases to confirm that they were purchases made for City purposes.¹⁴

¹¹ See North St. Paul Purchasing Policy Adopted on August 4, 2020, Appendix A: Credit Cards.

¹² *Id.*

¹³ City employees should make every effort to obtain an itemized receipt when one is available in the ordinary course of business. Missing receipt affidavits may be used in rare situations where an employee was unable to obtain an itemized receipt when the purchase was made.

¹⁴ If the City performs a review, it should seek legal advice from the City Attorney and report to the State Auditor and law enforcement any evidence of theft, embezzlement, unlawful use of public funds or property, or misuse of public funds as referred to in Minn. Stat. § 609.456 (<https://www.revisor.mn.gov/statutes/cite/609.456>).

2. City Credit Card Purchases for Non-City Purposes

Minnesota Law – Authority and Public Purpose for Expenditures

Under Minnesota law, each expenditure of public funds must be authorized and serve a public purpose.¹⁵ Authority may be specifically stated in a statute or implied as necessary to do something that is expressly authorized.¹⁶ A public purpose has been defined by the Minnesota Supreme Court as “[s]uch an activity as will serve as a benefit to the community as a body and which, at the same time, is directly related to the functions of government.”¹⁷

In most circumstances, public entities have no authority to give away public funds as donations. Following Minnesota law, donations to people, non-profits, charities, or other groups are not permitted unless they are based upon specific statutory or charter authority. For example, the Minnesota Attorney General’s Office has issued opinions finding that cities have no authority to donate city funds to organizations such as the Red Cross or the Boy Scouts.¹⁸ The assumption is that a gift of public funds to an individual or private entity serves a private rather than a public purpose. Before a public entity makes a contribution, it is important for that entity to determine that it has specific authorization under statute or charter to make the expenditure. For additional guidance, a copy of the OSA’s Statement of Position on Public Expenditures: Donations and Dues is included with this letter.

Similarly, the law provides that unless specific authority provides otherwise, employee social functions should not be paid for with public funds.¹⁹

Minnesota law does give cities specific authority for preventive health and employee recognition programs under Minn. Stat. § 15.46. This statute stated that a statutory or home rule charter city “may establish and operate a program of preventive health and employee recognition services for its employees and may provide necessary staff, equipment, and facilities and may expend funds as necessary to achieve the objectives of the program.” However, as explained in the OSA Statement of Position, “Employee Recognition Programs and Events,” properly established programs should be in writing and approved by the city council. They should include clear wellness and recognition objectives and a determination of what amounts can be expended as “necessary to achieve the objectives of the program.”²⁰ As a result, City funds can be spent only as necessary to achieve the objectives of an established wellness and employee recognition program. The public entity may not pay for spouses or third parties to attend a recognition event. A copy of the OSA’s Statement of Position on Employee Recognition Programs and Events is included with this letter for your convenience.

¹⁵ See, e.g., Op. Att’y Gen. 59a-22 (Dec. 4, 1934), and Op. Att’y Gen. 59a-22 (Nov. 23, 1966).

¹⁶ See, e.g., *Mangold Midwest Co. v. Village of Richfield*, 143 N.W. 2d 813, 820 (1966).

¹⁷ See *Visina v. Freeman*, 89 N.W. 2d 635 (1958).

¹⁸ See, for example, Op. Att’y Gen. 59-A-3 (May 21, 1948).

¹⁹ See Ops. Att’y Gen. 59A-22 (Jan. 8, 1957) (municipal corporation may not imply authority to appropriate public revenue for celebrations, entertainments, etc., quoting 15 McQuillin, *Municipal Corporations*, 3rd ed., Sec. 39.22), and 59a-22 (Nov. 23, 1966) (city Christmas party).

²⁰ See Minn. Stat. § 15.46.

OSA Findings

During the OSA's review of the City's credit card activity, it identified numerous transactions that lacked evidence of being legally authorized and meeting the public purpose requirement for expenditure of public funds. These included purchases through apple.com (such as a subscription to "Paramount+" and iCloud storage for a personal email account); cabinets with an invoice documenting the "customer" as a college in Saint Paul (an entity distinct from the City); possible donations; flowers for funerals; and cakes for special events including employee recognition, "holiday" parties, and a "farewell" to the Mayor.²¹

The OSA finds that City expenditures for entertainment apps or iCloud storage for an employee's personal email account, certain donations, gifts, and employee social events that are not part of an established employee recognition program appear unauthorized under Minnesota law.

Recommendation

The OSA recommends the City cease purchasing entertainment apps that are accessible using employees' personal email accounts or iCloud storage for employees' personal email accounts. We recommend the City determine the City purpose for the cabinets purchased for the College. We recommend the City review its Purchasing Policy and clarify the City's position on donations to other organizations. If donations to other organizations are not authorized by the City Council, receipts provided to the City documenting a donation should include additional documentation detailing specific authorization for the disbursement.²² In most governmental entities, funds for gifts such as flowers, cards, or other items recognizing events in a public employee's life are collected from fellow employees or public officials. We recommend the City consult with its attorney prior to expending public funds for flowers, holiday parties, or picnics for employees. Another option would be for the City to seek an Attorney General's opinion as to the permissibility of a city expending public funds for these purposes.²³

²¹ One possible donation appears to be made to a Political Action Committee (PAC) that supports congressional candidates, Power PAC, a political action committee related to the American Public Power Association. See <https://www.publicpower.org/issues-and-policy/take-action> ("Through this voluntary, non-partisan PAC, public power professionals pool their resources to contribute to the campaigns of Members of Congress who support public power.") The email in response to this apparent \$1,000 donation said, "Thank you for your support of PowerPAC! Please find below a confirmation of your donation." A handwritten note on the file copy, however, described the expenditure as "APPA Due's (sic.)," an apparent reference to the American Public Power Association. Another possible donation appears related to a banquet sponsored by a school district-related foundation. Supporting documentation refers to this \$107.20 expenditure as a "Donation" to the 622 Education Foundation, and a related email indicates "it was for the StArz Banquet." Information online indicates the 622 Education Foundation STAARS Banquet is "[h]eld in May of every year, [and that] this dinner is a celebration of the success and achievements of the top academic 10% of the North High and Tartan High students and their chosen teachers. Those teachers and students, along with the students' parents, are guests of the 622 Education Foundation at the Prom Center in Oakdale, MN." <http://622educationfoundation.com/event/staars-banquet/>.

²² If the payment described in footnote 21 was in fact for certain dues, the City employee should have provided documentation for the specific dues being paid (i.e., a printout or screen shot showing the price and description of the dues).

²³ See Minn. Stat. § 8.07 (2010) (Attorney General opinions).

3. Potential Gaps in Internal Controls Regarding City Credit Card Use

OSA Findings

During its review, the OSA noted a number of areas in which an absence of internal controls hindered the ability to track purchases or determine whether purchases were made with proper authority and purpose. For example, City credit cards were used to facilitate purchases of certain electronic devices such as TV's, phones, phone accessories, iPads and other devices. The use of the City credit card for these purchases, the City purpose of which was not evident, combined with the lack of supporting documents (including shipping and receiving records), raise concerns regarding the City's internal controls for tracking and monitoring these devices.

Additionally, for certain purchases made with a City credit card, documentation indicated the items purchased were shipped to locations that do not appear to be a City address. These purchases included but were not limited to a \$386.50 "HD GoCam" shipped to an Amazon locker, a \$253.23 iPhone shipped to a City employee's apartment, and a \$498.59 "Whole Home WiFi Intelligent Mesh System" shipped to an Amazon locker.

Recommendation

The OSA recommends implementing several internal controls to address the issues noted above. First, we recommend that the City verify that all purchases of electronic devices such as TV's, phones, iPads and other devices and purchases delivered to non-City addresses were purchased for the City. We urge the City to verify that all items were properly marked with a City asset tag if required, included on asset tracking log sheets, and that any/all appropriate City encryption or tracing software was properly installed on the devices. These measures should be accompanied by policies and procedures to ensure the return of such assets to the City when a City employee terminates employment.

Generally, the City also must make sure that items purchased by the City are received by the City. To accomplish this, we recommend the City have purchases delivered to the City at City addresses when possible so that the invoices can be marked as "received." Furthermore, sound internal controls require at least two individuals be involved in this process, one who makes the purchase and another who verifies receipt of the items purchased.

Conclusion

In summary, the OSA's review indicates that for the time period in question, City credit card purchases sometimes were not in compliance with legal requirements, and that the City lacked some safeguards to prevent loss or misappropriation of public funds through the use of City credit cards. We again note, however, that while the review was in progress, the City notified us of certain personnel and governing body changes and an intention to work with the City Attorney to address concerns raised in and following the City's 2020 audit. We hope this letter and the recommendations made within it will be of help to the City in its efforts.

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Mayor, City of North Saint Paul
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Pursuant to Minn. Stat. § 6.50, the OSA is providing copies of this letter to the City Attorney and the County Attorney.²⁴

Thank you in advance for your attention to this matter. If you have any questions, please feel free to contact me at (651) 296-4717 or Mark.Kerr@osa.state.mn.us or Nichole Bjornrud, CPA, CFE, at (651) 282-2750 or Nichole.Bjornrud@osa.state.mn.us.

Sincerely,

/s/ Mark F. Kerr

Mark F. Kerr, JD, CFE
Special Investigations Director
Office of the State Auditor
(651) 296-4717

Enc.

cc: The Honorable Tim Cole, City Council Member
The Honorable Cassidy Schweer, City Council Member
The Honorable Jason Nordby, City Council Member
The Honorable Lisa Wong, City Council Member
Mr. Brian Frandle, City Manager
Daniel Winek, City Finance Director
Soren Mattick, City Attorney
John J Choi, Ramsey County Attorney

²⁴ Minn. Stat. § 6.50, (“The report of such examination shall be filed with the mayor and city council ... and, in case of any violation of law, such report shall be filed with the city attorney thereof and with the county attorney of the county in which the administrative offices of such city are located, and these officials of the law shall institute such proceedings as the law and the public interest require.”)