

June 1, 2001

Sharon E. McKeehan  
Oregon State Payroll System Manager  
155 Cottage Street NE U50  
Salem, Oregon 97301-3969

Dear Ms. McKeehan:

At its June 1, 2001 meeting, the Oregon Government Standards and Practices Commission (GSPC) adopted the following advisory opinion:

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION  
ADVISORY OPINION 01A-1006**

**STATED FACTS:** The State Controller's Division (SCD) of the Department of Administrative Services (DAS) wishes to know how Oregon Government Standards and Practices laws apply to state employees using personal credit cards for any aspect of state travel or other state business.

**RELEVANT STATUTES:** The following Oregon Revised Statutes are applicable to the issues addressed herein:

244.020(15) Public official means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

244.040 **Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or

potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:

244.040(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

QUESTION: Would it be a violation of Oregon Government Standards and Practices law for state employees to use personal credit cards for state travel and other state business and receive incentives such as cash reimbursements, frequent flyer miles and other benefits based upon the dollar amount of purchases made?

OPINION: Yes. ORS 244.040(1)(a) prohibits public officials from using or attempting to use official position or office to obtain financial gain or the avoidance of financial detriment that would not otherwise be available **but for** the public official's holding of the official position or office, other than official salary, honoraria, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

Any financial benefit a public official accepts from a credit card company and personally uses as a result of the public official using a personal credit card to make a purchase on behalf of the official's public employer would violate ORS 244.040(1)(a) unless such benefits were formally adopted by the governing body of the public body as part of the employee's official compensation package.

Such benefits include frequent flyer miles, rebates, discounts on future purchases and all other such financial incentives. **But for** the employment by the public entity, the public official would not be using a personal credit card to make purchases for the public employer that create the opportunity to receive financial benefits from the issuing credit card company.

**THIS OPINION IS ISSUED BY THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION PURSUANT TO ORS 244.280. A PUBLIC**

Sharon E. McKeehan

May 9, 2001

Page 3

**OFFICIAL OR BUSINESS WITH WHICH A PUBLIC OFFICIAL IS ASSOCIATED SHALL NOT BE LIABLE UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS LIMITED TO THE FACTS SET FORTH HEREIN.**

Issued by Order of the Oregon Government Standards and Practices Commission at Salem, Oregon on the \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Katherine E. Tennyson, Chairperson

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lynn Rosik  
Assistant Attorney General

\_\_\_\_\_  
Date

O1A-1006-JP