

**Title: Purchasing Violation**

Approved by:   
Nathan Davis, Executive Director

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**AUTHORITY:** Minn. Stat. §§ [16A.15](#), [16B](#), and [16C.05](#)

**PURPOSE:** To establish guidelines for addressing purchases violating Minn. Stat. §§ 16A, 16B, and 16C, as well as other purchasing violations.

**APPLICABILITY:** Agency-wide

**POLICY:**

- A. Violations to Minn. Stat. §§ 16A, 16B, and 16C
1. According to Minn. Stat. § 16A.15, Subd 3a, *“A payment made in violation of this chapter is illegal. An employee authorizing or making the payment, or taking part in it, and a person receiving any part of the payment, are jointly and severally liable to the state for the amount paid or received. If an employee knowingly incurs an obligation or authorizes or makes an expenditure in violation of this chapter or takes part in the violation, the violation is just cause for the employee's removal by the appointing authority.”*  
  
A violation of Minn. Stat. § 16A occurs when:
    - (1) An obligation for less than \$2,500 is incurred against an expense budget with insufficient funds available to pay the obligation.
    - (2) An obligation for greater than \$2,500 is incurred before a purchase order is generated.
    - (3) Funds are not encumbered for a contract prior to services rendered.
  2. A violation of Minn. Stat. § 16B occurs, but is not limited to, when:
    - a) Non-recycled material is purchased instead of recycled material, if the recycled material is available and the price does not exceed the price of the non-recycled material by more than ten percent.
    - b) Product is purchased from a vendor if the same product is also available as a standard MINNCOR Industries product.
    - c) Space in a private building is leased without approval from the Commissioner of Administration.
    - d) A capital improvement is begun without Legislative Authority, except for those instances outlined in Minnesota Statute Section 16B.30.
  3. A violation of Minn. Stat. § 16C.05 occurs when work is started prior to a contract being signed by all parties and fully executed.
- B. Purchasing Card Violations
1. The use of purchasing cards to obtain the following items is prohibited:

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- a) Cash, cash advances or extensions of credit
  - b) Explosives
  - c) Weapons of any kind, including firearms and ammunition
  - d) Meals of individuals (including cardholder)
  - e) Alcohol
  - f) Tobacco (except as required for Indian programming - see Division Directive 302.310, "Use of Tobacco for Indian Ceremonies.")
  - g) Fuel
  - h) Capital Assets
  - i) Consulting or professional/technical service
  - j) Rental or purchase of equipment that requires a license to operate
  - k) Telephone calls (either personal or business)
  - l) Purchases subject to reporting to the IRS on Form 1099
  - m) Cellular phone purchases, repairs, or use charges
  - n) Travel expenses unless authorized (airline tickets, lodging) (see Purchasing Card policy)
2. Other purchasing card violations include:
- a) Using the purchasing card for personal use
  - b) Exceeding the purchasing card authority granted
  - c) Allowing another person to use the purchasing card
- C. Other Purchasing Violations - Other purchasing violations include:
1. Exceeding the limits of purchasing authority
  2. Purchasing services on a Field Purchase Order, with the exception of emergency vehicle repairs
  3. Purchasing from a non-contract vendor when a vendor has an exclusive use contract with the state
  4. Splitting purchase orders to avoid exceeding a person's purchasing authority
  5. Purchasing from a non-targeted vendor when a targeted vendor is available
  6. Declaring a purchase "sole source" when more than one vendor can provide the good or service
  7. Entering into conflict of interest situations (Code of ethics violation)
  8. Purchasing without a purchase order, except when the purchasing card is used.

#### **DEFINITIONS:**

Violator – the individual who, through a purchase using a Field Purchase Order, Purchasing Card, or Departmental Purchase order, violated Minn. Stat. §§ 16A, 16B, 16C, or other purchasing violations as outlined in policy.

Fully Executed – contract is encumbered and signed by all parties.

Obligation - when an employee of the state of Minnesota requests goods or services to be provided to the State by verbal or written communications.

Encumbrance - reservation of funds in the Minnesota Accounting and Procurement System.

MMD – Materials Management Division of the Department of Administration.

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Targeted Vendor – businesses or individuals certified by MMD to be primarily operated by minority, female, or persons with disabilities; or businesses operating in economically disadvantaged areas.

**PROCEDURES:**

- A. Accounts Payable or Purchasing staff will refer potential violations to his/her supervisor or Finance Director.
- B. The buyer's supervisor or Finance Director will review the purchase and determine if a violation has occurred. If the purchase is determined to be a violation, he/she will distribute a Purchasing Violation form to the violator for completion.
- C. The violator will complete the Purchasing Violation form and submit it to his/her supervisor for signature. This form must be completed within five days of receipt.
- D. The violator's supervisor will review and sign the form and route it to the administrative management director for review.
- E. The administrative management director will sign the Purchasing Violation form and route it to the Finance Director.
- F. The Finance Director will sign the form.
- G. The Finance Director will review and evaluate the violation, route the purchasing violation form to the MMD Acquisition Manager.
- H. Finance Director or Designee will maintain a log of violations by date and budget activity. The Finance Director will prepare annual report and make recommendations for improvement.
- I.

**REVIEW:** Annual

**REFERENCES:** Department of Finance Policy 0702-02  
[Policy 103.22, "Purchasing"](#)  
Department of Administration Authority for Local Purchase

**SUPERSESION:** None

**ATTACHMENTS:** [Purchasing Violation Form](#)