

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**



Legal Counsel Division

June 14, 2004

Deborah K. Nichols
District of Columbia Auditor
717 14th Street, N.W.
Suite 900
Washington, D.C. 20005

Re: Use of Credit Cards for ANC Expenditures

Dear Ms. Nichols:

This responds to your letter of May 17, 2004 wherein you ask this Office to revisit a prior opinion concerning whether Advisory Neighborhood Commissions (ANCs) may make use of credit cards to purchase authorized goods and services. We earlier determined that a credit card could not be so used. *See* Letter to Russell A. Smith, May 28, 1996 (attached hereto). You now ask us to reconsider our decision in light of the “changing technology landscape” and such economic realities as the considerable savings that might be realized through internet purchases and certain retail credit card purchases. For the reasons that follow, we can find no basis to alter our earlier conclusion on this issue.

We note at the outset that, although the ANC laws have been amended, there has been no change in the ANC law relevant to this subject since we rendered our previous decision. Subsection (f) of section 16 of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975, D.C. Law 1-21, as amended by the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000, effective June 27, 2000, D.C. Law 13-135, D.C. Official Code § 1-309.13(f) (2003 Supp.) (collectively, the ANC Act), provides in relevant part:

Any expenditure by check shall be signed by at least 2 officers of the Commission, one of whom shall be the treasurer or Chairperson. The check shall, prior to signature, contain the date of payment, the name of the payee, and the amount of the payment. No check may be made payable to cash. Any check shall be pre-numbered, shall bear the name of the Commission and “District of Columbia Government” on its face, and shall be issued in consecutive order.

In addition, subsection (h) of the ANC Act permits the establishment of a petty cash fund for the ANC in an amount not to exceed \$200 and authorizes single expenditures from that fund not to exceed that amount. These subsections are the only two provisions that speak to the method for ANC fund expenditures. As we concluded in our May 28, 1996 letter, the doctrine *expressio unius est exclusio alterius*, or, the expression of one thing is the exclusion of another, means in this instance that because the legislature specified certain methods for making expenditures (i.e., check writing, petty cash), it therefore intended to exclude other methods. *See* Letter to Russell A. Smith, May 28, 1996. We see no reason to disturb that conclusion.

Though you offer practical reasons for why credit card use should be allowed, it would be improper for this Office to permit external factors such as convenience and cost savings to influence our legal conclusions, which must be based solely on accepted tenets of statutory construction. In fact, it appears that the 1996 request on this subject was similarly motivated by a wish to make ANC purchases less cumbersome. In concluding that credit card use would be improper, we recognized that our decision might lead to such inconvenient circumstances as having two ANC officers who are authorized to sign a check (one of whom must be either the Chairperson or the treasurer) actually shop together for office supplies. We reasserted this strict interpretation yet again as recently as February 26, 2001, in a letter to you (attached) in which we concluded that the use of cashier's checks by ANCs similarly is not permitted, even where *necessity* (i.e., payment to the Board of Elections and Ethics which would not accept personal checks or cash even from ANCs) – as opposed to convenience – might otherwise require it.

In sum, we can find no acceptable basis to alter our earlier conclusion that under current ANC law, credit card use for authorized purchases would be improper.

Sincerely,

ROBERT J. SPAGNOLETTI
Attorney General

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RJS/dps

Attachments (2)

(AL-04-336)