

PURCHASING POLICY 38

DATE: Original: March 24, 2011 REVISION: June 11, 2015
TO: State Agencies Purchasers
FROM: Kent Allin, Director
SUBJECT: Receipt and/or Accrual and Use of Promotional Items and/or Benefits Earned When Purchasing Goods and Services with State Funds

Policy Objective

This policy establishes guidelines for the receipt and/or accrual and use of promotional items and/or benefits earned when purchasing goods and services with state funds. Promotional items and benefits include, but are not limited to, **cash backs, commissions, credit adjustments, discount coupons, free hotel/motel stays, frequent flyer miles, gift cards, gift certificates, incentives, rebates, reward/bonus points, and upgrades**. This policy is issued pursuant to Minn. Stat. § 16C.03, subd. 8.

BACKGROUND

The Minnesota laws and policies that prohibit state employees from using their position for personal gain include, but are not limited to, the following:

Minn. Stat. § 15.43, subd. 1(2) states no state employee may “accept directly or indirectly from a person, firm, or corporation to which a contract or purchase order has been or may be, awarded, a rebate, gift, money, or anything of value other than items of nominal value. No such employee may further accept any promise, obligation or contract for future reward.”

Minn. Stat. § 43A.38, subd. 6(a) and (b) state a conflict of interest occurs when one of the following conditions is present:

- (a) the use for private gain or advantage of state time, facilities, equipment or supplies or badge, uniform, prestige or influence of state office or employment.
- (b) receipt or acceptance by the employee of any money or other thing of value from anyone other than the state for the performance of an act which the employee would be required or expected to perform in the regular course or hours of state employment or as part of the duties as an employee;

Department of Administration, Office of State Procurement (OSP) Authority for Local Purchase (ALP) Manual provides information on purchasing, ethics, and conflict of interest. A copy of the OSP ALP Manual is available on website https://mn.gov/admin/assets/alpmanual_tcm36-516947.pdf, Acquisitions, ALP Manual.

Minnesota Management and Budget, Statewide Employee Management System (SEMA4), Policy PAY0021, Business/Travel Expenses, Benefits Derived from Travel, provides information on benefits derived from state travel. A copy of Policy PAY0021 is available on website https://mn.gov/admin/assets/Employee%20Business%20and%20Travel%20Expenses%20Reference%20Tool_tcm36-522396.pdf, Employee Business and Travel Expenses Reference Tool.

POLICY

This policy applies to the receipt and/or accrual and use of all promotional items and/or benefits (“Rewards”) that are distributed by vendors to state purchasers when making a purchase of goods and services with state funds. Promotional items and benefits include, but are not limited to, **cash backs, commissions, credit adjustments, discount coupons, free hotel/motel stays, frequent flyer miles, gift cards, gift certificates, incentives, rebates, reward/bonus points, and upgrades.**

All Rewards earned when purchasing goods and services with state funds are the property of the state, and if used, all Rewards must be used for official state business in pursuit of the agency mission.

State agencies must develop a process to document receipt and/or accrual and use of Rewards to ensure state employees are in compliance with Minnesota laws, rules, and policies. Documentation of receipt and/or accrual and use of Rewards must be kept on file for audit purposes. State employees not in compliance with Minnesota laws, rules and policies are subject to Minn. Stat. § 609.43, Misconduct of Public Officer or Employee.

This policy is made a part of the Department of Administration, Office of State Procurement Manual, Appendix N. Contact the Acquisition Manager at 651.201.2446 if you have questions regarding this policy.

References:

Minnesota Statutes §§ 15.43, 15.435, 16C, 43A.38, and 609.43
Department of Administration, Office of State Procurement ALP Manual
Minnesota Management & Budget, Payroll Policy PAY0021