

Convenience Fees – Internal COV

The purpose of this memo is to provide agencies and institutions of Higher Education guidance on how to handle Charge Card transactions where vendors attempt to charge an additional fee in order to process the Charge Card as a payment method.

What is allowable “Convenience Fee” charge according to the Visa Operating Regulations?

According to the Visa Operating Regulations, which is a part of the Vendor’s Merchant agreement to accept Visa, “Convenience Fees” **are allowed** under very specific conditions. Essentially, a convenience fee may be charged as a bona fide convenience for providing a payment method outside of a merchant’s normal business practice. That is basically a charge in addition to the original transaction amount for the convenience of being able to use an alternate payment method. This is considered an allowable charge if and only if the following criteria are met.

The convenience fee must be:

- Charged for a bona fide convenience in the form of an alternative payment channel outside the Merchant’s customary payment channels
- Disclosed to the Cardholder as a charge for the alternative payment channel convenience
- Added only to a non face-to-face Transaction
- A flat or fixed amount, regardless of the value of the payment due
- Applicable to all forms of payment accepted in the alternative payment channel
- Disclosed prior to the completion of the Transaction and the Cardholder is given the opportunity to cancel
- Included as a part of the total amount of the Transaction
- A Convenience Fee may only be charged by the Merchant that actually provides goods or services to the Cardholder. A Convenience Fee may not be charged by any third-party.
- A Convenience Fee must not be added to a Recurring Transaction.

It is important to understand that a vendor may offer incentives for you not to use the Charge Card as a form of payment, such as “cash discounts” which might include check or EDI payments. This is an acceptable alternative if the cash discount is clearly disclosed and the cash price is presented as a discount from the standard price charge for all other forms of payment.

The Department of Accounts considers allowable convenience fees to have the following characteristics:

- The fee is a flat amount regardless of the payment amount
- The fee applies to any customer utilizing a charge card
- The card holder knows about the fee prior to receiving the receipt
- The card holder and his or her agency may deem that paying the fee is in the best interest of the Commonwealth in terms of overall savings.

Note: Governmental agencies (Federal, State and Local) are allowed to charge these fees for tax payments.

What types of Service charges are not allowed under the Visa Operating Agreement?

- A Merchant must not establish a minimum or maximum Transaction amount as a condition for honoring a Visa Card or Visa Electron Card.
- A Merchant must not add any surcharges to Transactions, unless local law expressly requires that a Merchant be permitted to impose a surcharge. Any surcharge amount, if allowed, must be included in the Transaction amount and not collected separately.

For clarity, the examples below demonstrate practices that are not allowable:

- A surcharge or additional fee that applies only to a payment made by the Commonwealth of Virginia
- Any surcharge that is based on a percentage of the transaction total
- Any surcharge that is not clearly defined as part of the contractual negotiated price as agreed during the procurement process.
- An unwillingness to take the Charge Card for payments over a certain amount
- An unwillingness to take the Charge Card for Commonwealth of Virginia payments when the vendor accepts Visa payments from other customers.

What can a Commonwealth of Virginia Card Holder do if a vendor tries to add a fee to a transaction that does fall outside of allowable charges?

If a vendor tries to charge you a fee that falls outside of the allowable convenience fee definitions, the Card Holder should;

- Inform the vendor that these fees are not allowable and refuse to pay those fees
- Return or refuse any goods or services where the fee is imposed
- Inform the vendor that the Department of Accounts will file a complaint with Visa citing them as being violation of their merchant agreement. If they are found in violation of their merchant agreement based on this complaint, Visa can impose fines as well as terminate the vendor's ability to accept card payments.
- If the card is being used for a procurement purchase or payment, remind the vendor of the previously negotiated price which they agreed upon. Let them know that stating an unwillingness or inability to honor a binding bid can be basis for debarment. Debarment will exclude the vendor from contracting with state agencies for particular goods and nonprofessionals services for specified periods of time.
- Contact the Contract Administrator of any existing contracts with the vendor and inform them of the Vendor's unwillingness to honor the previously negotiated price.

How do you report a vendor you believe in violation of the Visa Operating Regulations?

Send an email to CCA@DOA.Virginia.gov with the following details:

1. Indicate if there was a Visa transaction made
2. Indicate if the card was available or present during the transaction or was this done over the phone or online
3. Provide the last 4 digits of the card account number
4. Provide the transaction or event date
5. Provide the MCC code if know or a generic description of good or service being purchased
6. Provide the Merchant Name
7. Provide the Merchant Address
8. Provide the Transaction Amount
9. Briefly describe the complaint and attach any documentation
10. Provide a transaction receipt if available

Remember, the Department of Accounts cannot enforce the vendor's Merchant agreement; we must supply Visa with the details to do this. But the Commonwealth can strictly enforce any efforts by a vendor to not honor a previously negotiated or contracted price.