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TO: Rob Rivers, Janice Davis, Mario Diaz, Rob Hunter, Abe Kani

FROM: Leslie Ward, City Auditor

DATE: October 5, 2004 (sent via e-mail)

SUBJECT: Cell Phone Policies and Procedures

On Friday, October 1st, we sent a listserv message to members of the National Association of Local Government Auditors and conducted research on the internet to obtain information regarding cell phone policies for other municipalities around the country. We received about 20 responses to our listserv inquiry from city and county governments and obtained 12 more examples through our internet research, which were primarily from universities. We also reviewed the mayor's Administrative Order No. 2002-4 regarding the authorization, assignment, management, use, and reimbursement of cell phone services for city employees to compare with the policies we obtained from other sources.

We identified several common factors in the cell phone policies from other municipalities:

- The need for a cell phone must be justified. Justification is generally based on emergency response requirements, employees in field operations without access to other means of communication, increased efficiency in job performance, and "must have" vs. "nice to have." *The city's administrative order states that city employees must have a bona fide need for use of cellular equipment, but it does not provide any criteria for what constitutes such a need.*
- Overall control of cell phones varies – may be through the information technology department, the purchasing unit, the city manager, or individual departments. *The city's administrative order gives centralized control over cell phones to the Bureau of General Services; centralized control has since been transferred to the Department of Information Technology.*
- Cell phones are generally to be used as a secondary means of communication; land lines and two-way radios should be used first when available. *The city's administrative order states that cell phones are for the purpose of communicating for official city business when other means of communication are unavailable, impractical, or inappropriate.*
- Phones generally must be acquired through the purchasing or information technology units, but acquisition is sometimes decentralized. *The city's administrative order states that the Bureau of General Services will issue cell phones to requesting departments;*

this responsibility has since been transferred to the Department of Information Technology.

- Employees are responsible for adequate safeguarding of the equipment and will be held responsible for repair or replacement if damage or loss is due to the employee's misuse or negligence. *The city's administrative order states that employees may be held responsible for the cost to repair or replace damaged, lost, or stolen cell phones, as determined in the judgment of the department head.*
- Employees may be disciplined, up to and including termination, for violating the municipality's policies regarding the use and care of cell phones. *The city's administrative order states that unauthorized use shall result in appropriate disciplinary action, up to and including termination of employment.*
- Policies remind employees that cell phones are not secure communication devices and that discretion should be used regarding the type of information provided through a cell phone. *The city's administrative order does not contain a similar provision.*
- For liability reasons, cell phone use is prohibited while driving, or employees must pull to the side of the road or use hands-free equipment when making or receiving phone calls while driving. *The city's administrative order does not contain a similar provision.*
- Monitoring of cell phone use is done through a review of monthly bills to identify lengthy calls, excessive roaming and/or long distance charges, significant call activity to outside agencies, and total costs in excess of the budget. *The city's administrative order requires department heads to review and distribute cell phone bills to employees. The employee is responsible for identifying non-business calls.*
- Employees who are authorized cell phones must sign a statement indicating that they have received the phone, have read the city's policy statement for cell phones, understand the restrictions and reimbursement requirements for personal use of the phone, and accept responsibility for repair and replacement costs for damage or loss that occurs through misuse of the phone. *The city's administrative order does not contain a similar provision.*
- Employees are only allowed one telecommunication device (e.g., a cell phone or a pager, but not both). *The city's administrative order does not contain a similar provision.*
- Monthly bills are reviewed for every phone to identify and obtain reimbursement of personal calls. *The city's administrative order requires employees to review their cell phone bills and reimburse the city for any non-business calls within 30 days of receipt of the bill.*

Provisions for personal use of cell phones included the following:

- Some municipalities completely prohibit personal use of cell phones, but most allow *de minimis*¹ personal use. Some allow personal use, without reimbursement, to the extent that such use is within the allotted monthly minutes or that the personal calls are infrequent and short in duration (e.g., less than three minutes).
- Employees who make personal calls on the phones must report them either by identifying them on the monthly phone bills or by maintaining and submitting a log of personal calls.

¹ The IRS allows employees to be provided a *de minimis* benefit that can be excluded from an employee's wages (i.e., nontaxable income) if the benefit has so little value that accounting for it would be unreasonable or administratively impracticable. One example the IRS provides in its Publication 15E is occasional personal use of a company copying machine as long as the use is sufficiently controlled "so that at least 85% of its use is for business purposes." The tax provision requires the employer to consider how frequently it provides similar benefits to its employees (e.g., an occasional versus an ongoing benefit).

- The methods for calculating reimbursements vary:
 - Reimbursement in accordance with the plan's per-minute rate.
 - A flat rate per minute that is not specifically linked to the phone plan but is stated in the policy.
 - Reimbursement based on the ratio of personal calls to business calls. *The city's administrative order uses this basis for reimbursement.*
 - Reimbursement is required but the method is not specified.
 - Reimbursement is required at the excess-minute rate if the monthly minute allotment was exceeded due to personal use.
- Reimbursements include roaming charges, long distance charges, and taxes, in addition to the per-minute rate. *The city's administrative order does not address these charges.*

Less commonly cited issues addressed in policies obtained from other municipalities:

- Number of monthly minutes allowed is based on employees' positions (e.g., 300 minutes for employees and division managers, 1000 minutes for department managers, and over 1000 minutes for elected officials).
- Contract with cell phone carrier allows municipality to pool all minutes, which eliminates the ability for employees to incur personal use and justify it as excess minutes.
- The de minimis number of minutes allowed is specified in the policy (e.g., 30 minutes per month) to allow time for calls that cannot reasonably be made before or after work and when the employee does not have access to a land line.
- Annual reviews of cell phone use are to be performed to ensure that the optimum rate plans are obtained.
- More recently developed guidelines prohibit the use of additional functions and services, such as text messaging and digital photography, with government-owned cell phones.

Several of the listserv responses stated that the monitoring and reimbursement requirements for non-business calls made or received on government-issued cell phones were costly and burdensome to administer. Because of this, there is a growing trend to provide an allowance to employees who have a business need for a cell phone. Allowances vary but generally range from \$30 to \$35 per month. (Allowances could be based on employees' positions rather than being uniform for all who receive an allowance.)

Allowances were cited as a best practice by one respondent who had done research on cell phone policies and found that as much as 40 percent of the total cost of providing cell phones was indirect costs (see attachment). Providing allowances in lieu of cell phones eliminates the administrative costs associated with purchasing cell phones and making monthly vendor payments; shifts the cost of equipment management, including purchasing, replacement, and maintenance, to the employee; and eliminates the need to monitor how the phones are used for purposes of optimizing rate plans and seeking reimbursement for personal calls. (Even a policy providing for *de minimis* personal use without reimbursement would require compliance monitoring.) Allowances also leave it to employees to choose a plan that best serves their needs for both business and personal use.

It is important to note that allowances must be reported to employees as taxable income; however, the employee may be able to take a tax deduction for the expenses associated with business use of the phone.

Attachment

Copy: Lynnette Young