Regulation Statement

The Texas A&M University System (system) recognizes that the performance of certain job responsibilities may be supported and enhanced by the provision of cellular communication devices and services.

Reason for Regulation

This regulation establishes the method for system members to make cellular communication devices and services available to employees. Member chief executive officers (CEOs) are responsible for establishing formal procedures for managing cellular communication allowances at their respective system member.

Procedures and Responsibilities

1. BUSINESS NEED

The provision of a cellular communication device or allowance to an employee must be based upon business need as determined by member management. Examples of business need include, but are not limited to (a) the employee frequently engages in work-related travel, (b) the employee is frequently out of the office on member business, (c) the employee’s duties require being “on call” for essential services, or (d) the employee is key personnel needed in the event of an emergency.

2. ACQUISITION OF CELLULAR COMMUNICATION DEVICES

2.1 Member-owned Devices

A member may elect to acquire and provide a cellular communication device to an employee whose job duties, in the opinion of management, necessitate the provision of such a device. A device acquired by a member and provided to an employee is considered to be member property and may be used by the employee only for official business. Generally, no personal use of the device is allowed except incidental use as defined by System Policy 33.04, Use of System Resources. A member employee furnished a member-owned device has no expectation of privacy in the individual’s use.
of the device, including information contained on the device. A member-owned device, and all information contained on the device, may be subject to examination by authorized member employees without notice.

2.2 Employee-owned Devices

A member may elect to monetarily contribute to the employee's purchase and operation of a cellular communication device and/or service when such employee’s job duties, in the opinion of management, necessitate the provision of such a device and/or service. In such case, the monetary contribution may be provided in one or both of the following forms:

(a) Cellular Communication Device Allowance – provides a monetary contribution toward the employee’s personal acquisition of a cellular communication device. A device allowance may be paid only once every two years. This allowance is intended to cover part of the cost for the device and any peripheral equipment purchased during the period. An employee receiving a cellular communication device allowance may not be reimbursed for peripheral equipment outside of the allowance process.

(b) Monthly Cellular Communication Service Allowance – provides a monthly salary supplement for the operation of a communication device and/or service. The supplement is provided to the employee for as long as the member determines that the employee qualifies under this regulation.

2.3 A cellular communication device purchased by an employee is considered to be the personal property of the employee and accordingly may be used as the employee deems appropriate. Any service contract the employee enters into for the operation of their personally-owned cellular communication device is personal to the employee. The member will not have any obligation or make any guarantee with respect to such service contracts.

2.4 If an employee currently has a member-owned cellular communication device and the member elects to change the employee to a monthly cellular communication service allowance, the device may be transferred from the member to the employee. Member procedures need to be established to address the process for handling these transfers.

3. MEMBER RESPONSIBILITIES

3.1 The CEO or designee is responsible for the following:

(a) Determining whether the employee’s position requires a cellular communication device or service based upon his or her job duties and responsibilities;

(b) Determining which of the allowed acquisition methods is most appropriate for an employee requiring a cellular communication device or service;

(c) Determining the source of funds to pay for a cellular communication device or service; and
(d) Ensuring the employee is made aware of the provisions of this regulation and any applicable member procedures.

3.2 If the cellular communication device is owned by the member, the CEO or designee is additionally responsible for the following:

(a) Ensuring that the substantiation requirements of the IRS are satisfied (see Section 5); and

(b) Obtaining reimbursement and/or removing access to a member-owned device as contemplated by this regulation if documentation of phone activity shows more than incidental personal use.

3.3 If the cellular communication device is owned by the employee, the CEO or designee is additionally responsible for the following:

(a) Determining the appropriate monthly cellular communication service allowance for the employee within the amounts authorized by this regulation;

(b) Completing the necessary member forms to document approvals. Approved forms must be retained by the member in accordance with the system records retention schedule; and

(c) Biennially reviewing the allowance and allowance amount to ensure that both remain appropriate for the employee’s job duties.

3.4 Member payroll offices will process the device and service allowances in accordance with the approved cellular communication allowance forms.

4. EMPLOYEE RESPONSIBILITIES

4.1 Member-owned Devices

Employees are responsible for the following:

(a) Ensuring that the device is used only for official business (with the exception of incidental personal use). The system recognizes that incidental use not initiated by the employee is possible but under any circumstances, it should be both infrequent and nonroutine. The system also recognizes that there may be emergency or extenuating circumstances under which the phone is needed for personal use. Those occasions also must be rare and nonroutine in nature. If personal use occurs under one of these circumstances, the employee must reimburse the member for the value of the personal use. If a call does not have an itemized cost because it falls within allowable minutes for the month, a prorated cost must be assigned;

(b) Ensuring that the substantiation requirements of the IRS are satisfied (see Section 5);

(c) Ensuring the physical protection of the device from damage and unauthorized use; and
(d) Ensuring that the device is returned to the member when it is no longer needed or the employee terminates employment with the member.

4.2 Employee-owned Devices

Employees are responsible for the following:

(a) Paying all amounts due as agreed between the employee and cellular communication device/service provider;
(b) Providing the member with the current access number of the communication device within five working days of activation; and
(c) Notifying the member within five working days of de-activation of the device or service. An employee is prohibited from continuing to collect a monthly cellular communication service allowance when the device or service is no longer active or no longer needed for the performance of the employee’s job responsibilities.

5. SUBSTANTIATION REQUIREMENTS FOR MEMBER-OWNED DEVICES

All phone calls made on a member-owned phone must be documented monthly on an itemized bill, accompanied by a signed statement from the employee certifying the legitimate business purpose of ALL device/plan use. Phone calls to one's home or family are not business related for this purpose.

6. CELLULAR COMMUNICATION ALLOWANCES

6.1 Allowances paid to the employee are taxable compensation and accordingly are subject to required tax withholdings. Payment of such taxes incurred is the responsibility of the employee and shall not be reimbursed to the employee by the member. A cellular communication allowance is not considered an entitlement, is not part of an employee's base salary and may be changed and/or withdrawn by the member at any time. Allowance payments are not subject to retirement deductions.

6.2 Members will periodically review the allowance rate for the acquisition and activation of cellular communication devices and for the monthly service plans. Such amounts are not intended to fully reimburse the employee for the total out-of-pocket costs, given that the device is expected to be owned by the employee and used for both personal and business use.

6.3 The allowances paid by members are subject to the following limits:

<table>
<thead>
<tr>
<th>Cellular Communication Allowance</th>
<th>Maximum Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Device</td>
<td>$100/every 2 years</td>
</tr>
<tr>
<td>Monthly Service</td>
<td></td>
</tr>
<tr>
<td>Voice only</td>
<td>$30/month</td>
</tr>
<tr>
<td>Voice/Data</td>
<td>$60/month</td>
</tr>
<tr>
<td>Voice/Data/Added features</td>
<td>$90/month</td>
</tr>
</tbody>
</table>

Members may authorize exceptions to the service allowance for an amount up to 50% above the maximum amounts for employees in travel status exceeding 100 days per
fiscal year. Any other exceptions to the maximum allowances must be approved by the member CEO.

6.4 All approved cellular communication allowances will be provided to employees as salary supplements and processed through member payroll offices.

6.5 An employee receiving a cellular communication allowance from one system member may not receive an allowance for the same or similar device or service from another member.

6.6 A monthly cellular communication service allowance may be established at any time during a fiscal year and may be changed or withdrawn at any time for any reason by the member.

6.7 State funds may be used for communication device and service allowances. Restricted funds that specifically prohibit such allowances may not be used.

7. REIMBURSEMENT FOR BUSINESS CALLS

7.1 An employee receiving a cellular communication allowance may not be reimbursed for related expenses outside of the allowance process, except for expenses related to international business communication.

7.2 An employee who does not receive a cellular communication allowance may be reimbursed for business calls made using a personal device. Member procedures must be established for the reimbursement process.

8. IMPLEMENTATION OF REGULATION

8.1 The requirements contained in this regulation apply to all new cellular communication allowances approved after the effective date of the regulation.

8.2 For existing cellular communication allowances, members must transition all existing cellular communication allowances to conform to the requirements of this regulation by no later than December 31, 2011.

Related Statutes, Policies, or Requirements

System Policy 33.04, Use of System Resources

Definitions
Cellular communication device – for the purposes of this regulation, defined as a cellular telephone, telephone/PDA or Smartphone, and peripheral equipment (e.g., carrying case, charger, hands-free headset).

Cellular communication service – for the purposes of this regulation, defined as the plan providing for operation of a cellular communication device.

Member Rule Requirements

A rule is not required to supplement this regulation.

Contact Office

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