

El Dorado County

FAQs - Cellular Telephone/Wireless PDA's (Smartphones) Policy

The frequently asked questions below are based on the El Dorado County Policy on Cellular Telephones, effective November 6, 2007. Each Department Head operating under the authority of the Cellular Telephone Policy has the responsibility to maintain accountability of cellular telephone usage. Departments must ensure that employees are following the cellular telephone policies. These FAQs may not answer all your questions; you may have to check with your department and/or your cellular telephone carrier for specific instructions on handling your unique situation.

Why does the County want me to own my cellular telephone?

The IRS requires that the business and personal use of County-owned cellular telephones must be documented in a very detailed manner. The IRS can declare that all undocumented use is personal and should be taxed as wages, even if the calls were mostly business calls. Receiving a taxable allowance for an individually owned cellular telephone removes this detailed documentation requirement.

I have used a County-owned cellular telephone for a long time with no problems. Why the change?

IRS authority says that personal calls that are included in the base plan must be documented and reimbursed, or reported as wages. IRS authority considers cellular telephone use a taxable fringe benefit if the business and personal use cannot be substantiated. Only recently has this emerged as a problem in IRS and other audits.

Why are you putting us through this?

The IRS takes this seriously. The IRS has already made cellular telephone use an audit issue for businesses and government institutions. In fact, the IRS recently audited two local cities, and at least one of those cities had to modify their cellular telephone policies and adjust accounting records from previous years.

Did the IRS audit affect the City employees?

Yes. The IRS found that the departments' usage of cellular telephones was not in compliance with the new IRS cellular telephone regulations. In some cases, employees' 2005 and 2006 taxable wages were increased to include the cost of an entire year of cellular telephone usage. These employees received corrected W-2s and had to file amended returns for both years to pay the increased tax liability.

Is the allowance that I receive for my own cellular telephone taxable?

Yes. The allowance amount is taxable income. Otherwise you would still be required to provide detailed documentation of your business and personal calls. If you are diligent about documenting all of your business use, it may be possible for you to deduct some cellular telephone expenses on your income tax return. Consult your own tax advisor.

Does everyone get a allowance for a personally owned cellular telephone?

No. You should only receive an allowance for your cellular telephone if your job requires that you carry a cellular telephone where other less expensive means of communication such as land lines or pagers are not adequate.

Do I get retirement contributions or other benefits if I receive a taxable allowance for my cellular telephone?

No. The allowance is not part of your salary – it is a taxable reimbursement not included when determining benefits.

What about Smartphones – PDA/Phone combinations?

If your job requires that you have access to email, calendaring or other PDA functions, your manager may approve the use of a smartphone, PC card or other device that is required to perform your job.

If I am authorized to use a Smartphone to access County e-mail calendaring or other services, can the County recommend which devices will work best and will be supported by the County?

The Information Technologies Department (I.T.) will only support connectivity to the County's email and calendaring infrastructure using approved, standardized software. For more information contact I.T. (x5696). I.T. requires that departments and

individuals only buy Smartphones that have been tested for compatibility with the existing infrastructure. To aid in the selection of a smartphone, I.T. will annually publish a list of smartphones that have been tested and shown to be compatible.

I already own a Smartphone but do not expect to receive an allowance to offset its cost. Can I still connect to the County's email and calendaring systems?

Yes, provided your department head approves the purchase of the software required to connect to the County's systems.

**County-Owned Telephones -
Why We Can't Continue as Before**

I only make personal cellular telephone calls during "free" calling periods, i.e., evenings and weekends, or using "free" cell to cell calling. Because those calls are free, they don't count, right?

No. The IRS says that "free" calls are a part of the base cellular service plan. So, even personal calls made during "free" calling times would have to be individually documented and reported as income to the IRS. The paperwork burden for the County and the employees would be prohibitive.

I have been paying for personal calls made on the County-owned cellular telephone. Aren't I meeting the IRS requirements?

Not unless you have provided detailed documentation of both personal use and business use and have paid a pro-rata share of your total cellular telephone bill. This method is too costly to administer in the County's view.

I document my personal calls by marking them on my cellular telephone bill or statement. Isn't that enough substantiation?

Under IRS authority it is not enough to mark personal calls and say that all the rest are business calls. IRS substantiation requirements include the *"amount of each separate expenditure, the amount of business/investment use, the date of the expenditure or use, and the business or investment purpose."*

And . . . the IRS definition of adequate record keeping is that the cellular telephone user *"shall maintain an account book, diary, statement of expense or similar record and documentary evidence which, in combination, are sufficient to establish each element of an expenditure."*

IRS Regulation 1.274-5A

This is all very complicated. I don't think I have the time or resources to jump through all of these documentation, substantiation, and reimbursement hoops. Now what?

We agree, so in the future the County will be providing County-owned cellular telephones only in limited situations such as employees who routinely respond to emergency situations. Employees with County-owned cellular telephones will need to provide written acknowledgement that these cellular telephones are not used for personal business and will be required to keep a log of all calls including the date, time, and the purpose of all calls.

If you feel you need a cellular telephone for County business purposes, you should work with your manager to apply for an allowance toward the payment of your own cellular telephone plan.

If you do not qualify for an allowance, you may submit an expense report and attach a copy of your cellular telephone bill showing the County business related calls. These calls will be reimbursed at the rate of \$0.05 per minute.

How do I switch from a County-owned cellular telephone to an individually-owned cellular telephone?

Regardless of whether your request for an allowance is approved or denied, if you would like to keep the cellular telephone you have been using and your department agrees that you may, see your department's telephone coordinator for procedures.

Will I have to buy my current cellular telephone from the County?

The cash value of a used cellular telephone is negligible. Therefore, the County will allow current County-owned cellular telephones to be transferred to the ownership of an employee that is currently using that cellular telephone. The employee will be responsible for monthly usage charges and future replacement of the cellular telephone, if necessary. However, your department will let you know whether or not the cellular telephone you have been using is available for transfer of ownership to you.

How is the County going to ensure that the new Cellular Telephone Policy is adhered to?

Department Heads are responsible for ensuring that their employees are in compliance with the County's Cellular Telephone Policy. Each department should have a designated cellular telephone coordinator. Because of the potential consequences of not being in compliance with the policy, the County Auditor's Office will be working with the individual departments to ensure that the policy is adhered to.

What happens if a County-owned cellular telephone is used for a personal call by mistake?

It is up to the department head to monitor usage and decide what action should be taken in if the cellular telephone is used accidentally for personal use. Actions might include canceling the use of a cellular telephone to this individual. Work on correcting the circumstances. Use the normal disciplinary actions available to the department through the MOU's.

If an employee currently has a family plan and this plan is not in the 530 area code, can the employee still add an allowance cellular telephone to this plan?

The department head would need to make this decision. Most cellular telephone plans are not marketed by phone numbers. They are set up by regions, not phone areas. Most plans now are anywhere minutes.

What happens when an employee receives a text message or a page? How is this justified?

There are plans that allow for text messaging; however, the County is not promoting the use of text messaging. If the cellular telephone is determined to be an "allowance" phone, the employee may want to add the text messaging feature to their plan, but this would not be part of an allowance. County-owned cellular telephones text messaging feature will be turned off.

How are County "shared" cellular telephones handled?

If the department has a cellular telephone that is shared by several employees, each employee who will be using the cellular telephone needs to complete the "Cellular Telephone Policy Acknowledgment - County Owned" to be signed by the employee and the original retained in each employees departmental personnel file.

In July 2008, a new law will be in effect that will require all cellular telephone calls made from a vehicle be hands-free. Will the policy be updated to reflect this law?

The Computer and Network Resource Usage Policies and Standards Guide will be updated to reflect this law.