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**Comptroller General
of the United States**

**United States General Accounting Office
Washington, DC 20548**

Decision

Matter of: Nuclear Regulatory Commission: Reimbursing Employees for Official Usage of Personal Cell Phones

File: B-291076

Date: March 6, 2003

DIGEST

The Nuclear Regulatory Commission may reimburse its employees for (a) the actual costs of maintaining personal cell phone services that meet the agency's minimum needs, and (b) the additional costs that may arise from any official calls actually made or received on the employee's cell phone. Safeguards included in the agency's proposal (requiring monthly, itemized service provider invoices, limiting claims to the expenses that the NRC would otherwise pay for such services, and adjusting claims to exclude the hidden costs of "free" services included in the service provider's plan) provide adequate assurance that the reimbursements will be limited to government-related calls.

DECISION

The Nuclear Regulatory Commission (NRC) has requested our decision on a proposal to reimburse some of its employees for official access to and use of their personal cell phones. For the reasons given below, we conclude that NRC's proposal is consistent with existing legal authority, and we have no objection to it.

BACKGROUND

To respond to incidents involving nuclear materials at power plants or other nuclear facilities, NRC has established teams, located across the country, that it calls Incident Response Teams (IRT). NRC requires IRT staff to be available and accessible 24 hours a day, 7 days a week, 365 days a year. Presently, NRC provides government-procured cell phones to the IRT staff to ensure their accessibility in the event of an emergency, and for efficient and cost-effective conduct of other government business when staff are away from the office and do not have ready access to the Federal Telephone System. NRC pays for activation and maintenance fees for these phones, as well as the costs for calls made. NRC also procures

supplies and support services for these phones, including replacement phones, batteries, and belt clips.

In July 2001, NRC was considering a proposal from IRT staff that NRC, rather than supplying staff with cell phones, reimburse staff for official use of their personal cell phones and asked us if it could reimburse IRT employees at a flat rate. Letter from Anthony C. Rossi, Acting Director, Division of Accounting and Finance, Office of the Chief Financial Officer, NRC to Anthony Gamboa, General Counsel, GAO, July 3, 2001. At that time, we told NRC that we were already considering a similar request from the Western Area Power Administration (WAPA); in October 2001, we transmitted a copy to NRC of the WAPA decision, B-287524, October 22, 2001. In our decision to WAPA, we stated that we had no legal objection to WAPA reimbursing its employees for government use of employee cell phones. However, without specific statutory authority, WAPA could not provide reimbursement on the basis of a flat rate, but only on the basis of actual expenses incurred for government use. We advised that “[w]here WAPA, or other interested agencies, can document that the benefits of a flat rate reimbursement plan outweigh agency costs, we would encourage the agency to seek legislative authority from the Congress to implement such a plan.” B-287524, Oct. 22, 2001.

NRC subsequently submitted a new reimbursement proposal for our consideration. Letter from Greg Benoit, Director, Division of Resource Management and Administration, NRC, to Anthony Gamboa, General Counsel, GAO, July 10, and Nov. 20, 2002. NRC asserts that this proposal assures reimbursement only of actual costs incurred for official business. Under this proposal, NRC would reimburse an IRT employee’s costs of:

- (a) maintaining an activation plan that meets NRC’s minimum needs, including basic activation, local coverage, and voice mail capability; and
- (b) any additional charges that the employee incurred for official calls actually made or received, including air time and roaming charges.

NRC will limit reimbursements for cell phone activation plans to amounts which do not exceed the amounts that NRC would have paid had it procured the services itself. NRC will require the employee to include in a reimbursement claim copies of monthly itemized invoices from the employee’s cell service provider.

DISCUSSION

Agencies may reimburse their employees for the actual costs of government use of the employees’ personal cell phones, including the costs associated with official use of the equipment as well as the cost of individual calls made. B-287524, Oct. 22, 2001.

In order to prevent the misuse of government resources for private business, any reimbursement plan must include adequate safeguards to prevent abuse. Id. B-229406, Dec. 9, 1988. For example, a monthly bill itemizing all phone calls and charges is an acceptable safeguard.¹ B-229406, Dec. 9, 1988. A monthly itemization permits the agency to verify which calls are personal and which are official in nature. Id.

NRC proposes the following safeguards. To ensure that NRC reimburses only for its use of the employee's equipment, and that it does not reimburse the employee for the employee's cost of the equipment, NRC will (1) reimburse the costs of the employee's activation plan at an amount no greater than what NRC itself would have paid; and (2) adjust the costs of an activation plan to deduct the value of so-called "free" telephones and accessories, rationalizing that such equipment is not actually free but factored into the plan's cost by the service provider. To ensure that NRC reimburses only for official calls, NRC will require the employee to submit a monthly bill from the employee's service provider itemizing all calls made that month. We consider NRC's safeguards adequate to ensure that government resources are applied to official, not personal, use.

CONCLUSION

We have no legal objection to NRC's proposal to reimburse its IRT staff for the actual costs of maintaining personal cell phone services that meet NRC's minimum needs, as well as for the additional costs that may arise from any official calls made or received on the employee's cell phone. The safeguards NRC included in its proposal provide adequate assurance that NRC's reimbursements will be limited to government-related calls.

/signed/

Anthony H. Gamboa
General Counsel

¹ For cell phone plans that do not itemize cost per call, pro-rating government-related calls as a ratio to personal calls may prove an acceptable safeguard as well, but will require an agency to impose additional tracking and accounting procedures. B-287524 n.3, Oct. 22, 2001.