

**Joint Legislative Committee on Performance
Evaluation and Expenditure Review (PEER)**

Report to
the Mississippi Legislature



State Agencies' Use of Cellular Telephones

PEER surveyed state agencies regarding their procurement and use of cellular telephones. State agency respondents reported a total of 3,441 cell phones with active calling plans. These agencies reported spending approximately \$2 million per year during each of the last two fiscal years on cell phone equipment and use.

Individual agencies make their own decisions on equipment and calling plans and have a broad range of choices when making these decisions. The state's interest in efficient and prudent use of cell phones is protected only insofar as each agency shows diligence and concern for protecting that interest. No state-level controls or policies specifically outline standards of need or appropriate use of state-owned cell phones.

Cellular telephones, pagers, two-way radios, and other emerging forms of wireless communication are resources that agencies should manage proactively. PEER recommends that the Department of Information Technology Services establish general policies for agencies to assess need prior to establishing service for cell phones or other forms of wireless communication. Agencies should balance their needs against what is available through the marketplace and make informed choices on this use of state funds.

PEER also recommends that the Department of Information Technology Services develop a single or limited number of contracts in an attempt to reduce service plan costs, considering whether it is appropriate to establish a state contract rate or procure plans on the basis of bids. The department should also develop a use policy for agencies for all forms of wireless communication that, at a minimum, restricts personal use to emergencies and requires a telephone log for personnel not directly involved in providing public health or safety services.

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The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A standing joint committee, the PEER Committee is composed of five members of the House of Representatives appointed by the Speaker and five members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms with one Senator and one Representative appointed from each of the U. S. Congressional Districts. Committee officers are elected by the membership with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of three Representatives and three Senators voting in the affirmative.

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The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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The Mississippi Legislature

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November 13, 2001

Honorable Ronnie Musgrove, Governor
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Honorable Tim Ford, Speaker of the House
Members of the Mississippi State Legislature

On November 13, 2001, the PEER Committee authorized release of the report entitled **State Agencies' Use of Cellular Telephones**.

A handwritten signature in cursive script, reading "Herb Frierson", written over a horizontal line.

Representative Herb Frierson, Chairman

This report does not recommend increased funding or additional staff.

Table of Contents

Letter of Transmittal i

List of Exhibits v

Executive Summary vii

Introduction 1

 Authority 1

 Purpose and Scope 1

 Method 2

Background 4

Questions About Use and Procurement..... 5

PEER Concerns Regarding Agencies' Management of Cell Phone Resources20

Recommendations27

Agency Responses29

List of Exhibits

1. Number of Phones Owned or Leased by State Agencies6

2. Total State Agency Cell Phone Expenditures, FY 2000 and FY 20018

3. Providers' Market Share of Mississippi State Agency Cell Phone Plans, 200117

4. Cell Phone Rates, Number of Plans, and Number of Vendors,
Mississippi and Surrounding States24

5. Number of Cell Phone Plans in Each Category, Based on Number of Minutes25

State Agencies' Use of Cellular Telephones

Executive Summary

Introduction

In response to a legislative request, PEER answered seven specific questions regarding agencies' procurement and use of cellular telephones. These questions and answers are presented on pages vii through ix of this executive summary.

To answer these questions, PEER conducted a survey of state agencies. Following the collection of survey information necessary to answer the questions, PEER became concerned over possible problems related to state agencies' management of cell phones and the report contains a section discussing these concerns.

For purposes of this project, PEER imposed a scope limitation with respect to the definition of a "state agency." For purposes of this report, the term "state agency" includes the boards, commissions, departments, authorities of state government, and institutions of higher learning.

Questions about Cell Phone Use and Procurement

How many cellular telephones are in the possession of state agencies?

State agency respondents identified a total of 3,646 cellular phones, with 3,441 having currently active calling plans.

How much expense did the agencies with cellular telephones incur in FY 2000 and FY 2001?

Agencies reported spending approximately \$2 million per year during each of the last two fiscal years on cellular phone equipment and use.

How much in savings, if any, did agencies realize from the use of cellular telephones?

Of the eighty-one agencies responding that have cell phones, three identified a total of \$2,804 in savings from the use of cell phones.

Other agencies reported efforts to save money through purchase of cell phones, but did not report a dollar amount of savings.

How do agencies procure cellular telephones and service?

No centralized process controls the procurement of cellular telephones and calling plans or assesses agencies' need for such. Individual agencies decide which equipment or calling plans will be appropriate and they have a broad range of choices when making these decisions.

Each state agency, following Department of Information Technology Services (ITS) procedures, procures its own cellular equipment and service. When purchasing cellular phone equipment and service, state agencies have two options:

- obtain competitive quotes or bids (depending on value of proposed purchase) and complete the purchasing procedure required by ITS; or,
- purchase through using the Cellular Express Products List (EPL) published by ITS.¹ This is the primary method agencies use to acquire cellular phones and service.

How do agencies ensure that procurement of cellular telephone services is necessary and that the telephones procured are used for agency business only?

No state-level controls or policies specifically outline standards of need or appropriate use of state-owned cellular telephones. Policies addressing these matters are developed by the individual agencies.

Of eighty-one agencies with cellular phones, twenty-nine reported that they have formal use policies and internal controls in place to ensure that cellular phones are used only for appropriate state business. Few agencies described how they monitor compliance with their policies.

Pages 12 through 15 of the report detail the number of agencies reporting that they have policies relative to cell phones in the following areas: equipment and purchasing, financial controls, issuance, certification by employees, related employee training, proper use of state property, appropriate use, personal use, abuse, and use while driving or operating machinery.

¹ The EPL is a list of bids competitively solicited by ITS and compiled based on specifications and purchasing demand. EPLs are multi-vendor awards that meet state purchasing requirements and are negotiated as one-year contracts. Agencies using the EPL automatically meet competitive bid requirements.

How many calling plans are used by state agencies?

At least 459 calling plans are currently in use by the eighty-one responding agencies with cell phones. Two carriers dominate the state agency cell phone market: Cingular, with 49% of the market share, and Cellular South, with 31%.

Typical plans cost from \$20 to \$50 per month and range from having 100 to 450 minutes included in the plan. The cost of roaming and long distance on out-of-state calls ranges from zero to \$.99 per minute.

What is the potential liability for state agencies associated with state employees using cellular telephones while driving?

Although some states have passed restrictive legislation or made it illegal to drive while talking on a hand-held cellular telephone, Mississippi has not. Further, no common law decisions from Mississippi courts hold that the use of a cellular telephone while driving constitutes an act of negligence. The director of Mississippi's Tort Claims Board notes no trend toward litigation against states because of employees' use of cellular telephones related to alleged vehicular negligence and does not view potential liability as a major concern thus far.

It would be difficult to determine each state agency's potential liability because it is the unknown actions of an individual or unforeseen events and circumstances that could result in a tort claim. Because Mississippi has no statewide policy addressing state employees' use of a cell phone while driving, agencies must assess their own risks and develop policies accordingly.

PEER Concerns Regarding Agencies' Management of Cell Phone Resources

In collecting descriptive information on the procurement and use of cellular telephone services by state agencies, PEER noted several concerns. At present, individual agencies have authority over their procurement and use decisions. The implications for this are that the state's interest in efficient and prudent use of cellular telephones is protected only insofar as each agency shows diligence and concern for protecting that interest.

Pages 20 through 26 of the report discuss several areas of concern regarding cellular telephone procurement and use: oversight of inventory, tracking usage expenses, reporting of management information, and the effects of decentralized procurement, agencies' flexibility in procurement, and a lack of comprehensive policies.

Recommendations

1. The State Auditor should direct all agencies to list cellular telephones and other wireless communication devices on inventory regardless of whether they were provided free or are not currently in use.
2. The Department of Finance and Administration should direct state agencies concerning the preferred code or codes to be used for charges for cellular telephones and for other forms of wireless communication.
3. The Legislature should require that the Department of Information Technology Services establish general policies for agencies to assess a need for cellular phones or other forms of wireless communication service based upon establishment of the following:
 - whether a less expensive telecommunications alternative is suitable and/or available;
 - whether a cell phone issued to an employee would improve job performance and productivity through better communicative ability and/or mobility;
 - whether the agency's needs can be met with present service levels;
 - whether the agency's use patterns provide for a limited number of cell phones that can be checked out by employees on a daily basis;
 - whether quantifiable benefits are associated with the procurement of cellular service and whether cellular service provides more efficient or effective service delivery; and,
 - whether quantifiable savings associated with the use of cellular telephones result in a reduction in other costs.

Each agency should establish specific guidelines and report the quantifiable benefits and savings that it realizes from the use of cell phones and other forms of wireless communication in its annual report to the Legislature.

4. The Legislature should require the Department of Information Technology Services to develop a single or limited number of contracts with cellular service providers in an attempt to reduce service plan costs for state agencies. In developing these contracts, the

department should take into consideration agencies' need and use patterns.

Further, ITS should consider whether it is appropriate to establish a state contract rate that any provider may meet or to procure plans on the basis of a lowest and best bid. The department should take steps to restrict state agencies from using any form of cellular or other wireless communication service except for those plans approved by ITS.

5. The Legislature should amend MISS. CODE ANN. Section 25-53-107 to require the Department of Information Technology Services to develop a use policy for all state agencies for all forms of wireless communication that, at a minimum, establishes the following:
 - a policy restricting personal use to emergencies;
 - a requirement that any person assigned a cellular telephone prepare and maintain a telephone log documenting each telephone call made on a cellular telephone, the purpose of the call, the person to whom the call was directed, and the time of the call. The policy should include a provision that agencies involved in law enforcement or protection of public health and safety may receive a waiver for personnel directly involved in providing such services.

ITS should require all agencies to adopt the recommended policy or to develop a policy no less stringent than the policy proposed by ITS.

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State Agencies' Use of Cellular Telephones

Introduction

Authority

In response to a legislative request, PEER collected survey data on state agencies' procurement and use of cellular telephones. PEER also reported concerns that it has regarding proper control over and efficient procurement of cellular telephones. The Committee acted in accordance with MISS. CODE ANN. Section 5-3-57 (1972).

Purpose and Scope

PEER was asked to obtain answers to seven specific questions regarding agencies' procurement and use of cellular telephones:

- How many cellular telephones are in the possession of state agencies?
- How much expense did the agencies with cellular telephones incur in FY 2000 and FY 2001?
- How much in savings, if any, did agencies realize from the use of cellular telephones?
- How do agencies procure cellular telephones and service?
- How do agencies ensure that procurement of cellular telephone services is necessary and that the telephones procured are used for agency business only?
- How many calling plans are used by state agencies?
- What is the potential liability for state agencies associated with state employees using cellular telephones while driving?

To answer these questions, PEER conducted a survey of state entities (see "Method," below). Following the collection of survey information necessary to answer the specific questions, PEER became concerned over possible problems related to state agencies' management of cell phones. This report contains a section discussing these concerns.

For purposes of this report, PEER included institutions of higher learning within the meaning of "state agency."

For purposes of this project, PEER imposed a scope limitation with respect to the definition of a "state agency." For purposes of this report, the term "state agency" includes the boards, commissions, departments, and authorities of state government. This is consistent with customary usage of the term. Additionally, PEER included the institutions of higher learning within the meaning of "state agency." While these institutions are not customarily thought of as agencies of government, they use considerable state resources and their efficient use of resources should be a concern for the state. The report's scope did not include legislative use of cellular telephones.

Method

To obtain information on state agencies' use of cellular telephones, PEER surveyed 107 state agencies.

PEER based the selection of agencies surveyed on an inventory report of the State Auditor and on use of several Department of Finance and Administration expense codes to which agencies assign various telecommunications expenditures.

The State Auditor's report provided information on which agencies owned cellular or mobile phones as of December 1, 2000. The Department of Finance and Administration's expense codes include expenditures for both the purchase and lease of cellular phones and can provide expenditures and usage information for any fiscal periods needed.

Of 107 state agencies PEER surveyed, 81 reported cellular phone use and 22 agencies reported that they did not use cellular phones.

PEER's survey results are based entirely on unaudited self-reporting by state agencies and the institutions of higher learning and exclude expenditures for Grand Gulf Military Monument and the Department of Health. These two agencies indicated they were unable to provide the requested expenditure information regarding their use of cellular phones. FY 2001 figures are on a to-date basis as of May 2001.

PEER's survey had a 97% response rate and of 107 state agencies surveyed, 81 reported cellular phone use and 22 agencies reported that they did not use cellular phones. Four agencies did not respond: the Real Estate Appraisal Board, the Real Estate Commission, the Board of Examiners for Licensed Professional Counselors, and the Board of Psychological Examiners.

PEER also obtained additional information from the Department of Information Technology Services, the Tort Claims Board, the Department of Finance and Administration, and the State Auditor.

Background

Advancements in technology over the past ten years have made it possible for state agencies to make use of small, wireless telephones for state business purposes. Commonly referred to as cellular telephones, or cell phones, these devices enable an officer or employee to carry a telephone while away from the office on state business.

Agencies of state government have joined other public and private users in making use of cellular telephones. The use of these telephones has not occurred without accompanying concerns. If not properly supervised by agency management, cellular telephones purchased by the state may be inappropriately used for personal business. Further, the large number of service plans available to agency users creates an environment wherein efficient procurement may not be promoted. Finally, in recent years, some concern has arisen in other states about the danger to the public posed by persons using cellular telephones while driving.

Questions about Use and Procurement

As noted on page 1, PEER addressed seven specific questions about the procurement and use of cellular telephone services. The following sections restate the questions and provide answers.

How many cellular telephones are in the possession of state agencies?

State agencies responding to PEER's survey reported a total of 3,441 cell phones with active calling plans.

State agency respondents identified a total of 3,646 cellular phones, with 3,441 having currently active calling plans. Of 3,441 active phones, 15 are being leased through a provider rather than being purchased by the agency. The number of cellular phones in each agency ranges from 1 to 540. See Exhibit 1, page 6, for the number of cellular phones belonging to each agency.

How much expense did the agencies with cellular telephones incur in FY 2000 and FY 2001?

Agencies reported spending approximately \$2 million per year during each of the last two fiscal years on cellular phone equipment and use.

In the survey, PEER requested that agencies provide information on expenditures for equipment and usage on a purchase or lease basis for FY 2000 and FY 2001 through May. PEER also asked agencies to provide the expense codes to which they assign their cellular phone expenditures.

Agencies reported spending approximately \$2 million per year during each of the last two fiscal years on cellular phone equipment and use. In FY 2000, agencies' cellular phone service plan costs were \$1,943,089. Agencies spent \$102,735 to purchase cellular equipment and \$5,268 for equipment leases.

In the first eleven months of FY 2001, agencies spent a total of \$1,888,660. Agencies spent \$46,402 to purchase equipment and \$8,073 for equipment leases. Because equipment purchases for FY 2001 are less than half of the prior year's expenditures, PEER makes the assumption that most equipment was purchased in FY 2000. See Exhibit 2, page 8, for total state government cellular phone expenditures in FY 2000 and FY 2001.

**Exhibit 1: Number of Phones Owned or Leased
by State Agencies**

AGENCY	# PHONES
Department of Transportation	540
Mississippi State University	388
Mississippi State University Extension Service	193
Department of Corrections	183
University of Mississippi	179
Department of Public Safety	175
Department of Health	175
University of Southern Mississippi	140
Mississippi State University Agriculture & Forestry Extension Service	138
Bureau of Narcotics	125
Department of Environmental Quality	119
Department of Mental Health	109
Public Service Commission*	80
Jackson State University	75
Department of Human Services	61
University Medical Center	60
Forestry Commission	55
Department of Agriculture and Commerce	52
Department of Education	43
Alcorn State University	43
Mississippi State University Forest & Wildlife Resource Center	43
State Tax Commission	42
Emergency Management Agency	38
Office of the Attorney General	37
Mississippi Development Authority	37
Gaming Commission	36
Department of Marine Resources	35
Governor's Office-Division of Medicaid	31
Mississippi Valley State University	29
Department of Finance and Administration	28
Authority for Educational Television	27
Administrative Office of Courts	26
Mississippi University for Women	22
State Board of Institutions of Higher Learning	19
Department of Information Technology Services	17
Library Commission	16
Secretary of State	15
Bureau of Plant Industry	15
Port Authority at Gulfport	15
Pearl River Water Supply District	12
State Aid Road Construction	11
Governor's Office	11
Oil and Gas Board	10
Delta State University	10
Board of Medical Licensure	9
Workers' Compensation Commission	8
Department of Insurance	8
Department of Rehabilitation Services	8
Department of Wildlife, Fisheries and Parks	7
Board of Public Contractors	6

*Includes response of Public Utilities Staff.

EXHIBIT 1: Continued

Department of Archives and History	6
Board of Cosmetology	6
Department of Audit	5
Employment Security Commission	5
Military Department	5
Board of Pharmacy	5
Board of Nursing	5
Fair and Coliseum Commission	5
Veterans Affairs Board	4
Tombigbee Water Management District	4
Pearl River Basin Development District	4
Pat Harrison Waterway District	3
Public Employees Retirement System	3
Commission on Judicial Performance	3
Arts Commission	3
Veterans' Memorial Stadium	3
Board of Community and Junior Colleges	2
Mississippi Coast Coliseum	2
Ethics Commission	1
Grand Gulf Military Monument	1
Board of Animal Health	1
Board of Veterinary Medicine	1
Board of Agricultural Aviation	1
Athletic Commission	1
Department of Banking and Finance	1
Board of Architecture	1
Soil and Water Conservation Commission	1
Auctioneers Commission	1
Board of Optometry	1
Treasury Department	1
TOTAL # OF PHONES	3,646

SOURCE: PEER cellular phone survey data.

Exhibit 2: Total State Agency Cell Phone Expenditures, FY 2000 and FY 2001*

Agency expenditures	FY 2000	FY 2001**
Equipment purchased	\$102,735	\$46,402
Equipment leased	5,268	8,073
Calling plan costs	1,943,089	1,888,660
Total	\$2,051,092	\$1,943,135

*Does not include expenditures for the Department of Health or Grand Gulf Military Monument.

**Includes first eleven months of FY 2001.

SOURCE: PEER survey.

How much in savings, if any, did agencies realize from the use of cellular telephones?

Of the eighty-one agencies using cell phones, three identified a total of \$2,804 in savings from the use of cell phones.

Only 6 agencies reported that they document savings realized from cellular phone use.

According to the survey responses, only six agencies stated that they document savings realized from a reduced or eliminated reliance on other forms of two-way communication resulting from their cellular phone use. The documentation provided by these agencies reflects an attempt to compare the cost-effectiveness of cellular phones to that of other telecommunications devices. Following are examples of the ways agencies report that they save money through purchase of cellular phones:

- replacing a two-way radio with cell phones rather than making an expensive upgrade in equipment;
- purchasing cell phones as new equipment (rather than wireline phones) to take advantage of less expensive long distance service;
- removing a wireline phone and replacing it with a cell phone to which office calls can be forwarded (the agency estimates \$252 in annual savings);
- replacing radios and other equipment used in administrative support communications (the agency estimates \$2,300 in annual savings); and,
- experimenting with issuing cell phones rather than wireline desk phones to new employees with job duties requiring a high degree of mobility and communications capability (the agency estimates \$252 in annual savings per phone).

How do agencies procure cellular telephones and service?

No centralized process controls the procurement of cellular telephones and calling plans or assesses agencies' need for such. Individual agencies decide which equipment or calling plans will be appropriate and they have a broad range of choices when making these decisions. The following paragraphs describe the processes that agencies follow.

Authority for Cellular Phone Procurement

Most state agencies use the Cellular Express Products List for acquiring their cell phones.

State law authorizes the Department of Information Technology Services (ITS) to regulate information technology, computer and telecommunications software, and equipment or service purchases and use (MISS. CODE ANN. Sections 25-53-3 et seq. and 25-53-101 et seq. [1972]). Statutes govern ITS's procurement of the aforementioned in accordance with state purchasing laws or ITS regulations, or both. State agencies and institutions of higher learning are under the purview of ITS and therefore required to follow ITS procurement procedures.

Each state agency, following ITS procedures, procures its own cellular equipment and service. When purchasing cellular phone equipment and service, state agencies have two options:

- obtain competitive quotes or bids (depending on value of proposed purchase) and complete purchasing procedure required by ITS; or,
- purchase through using the Cellular Express Products List (EPL) published by ITS. (See definition of EPL in the following section.)

The primary method of procurement by agencies for acquiring cellular phones and service is to use the Express Products List.

Procurement of Cellular Phones and Service through the Express Products List

Purpose and Use of the EPL

Express Products Lists (EPLs) are multi-vendor awards that meet state purchasing requirements and are negotiated as one-year contracts.

Express Products Lists are lists of bids for commodity items that ITS competitively solicits and evaluates, based on specifications and purchasing demand. EPLs are multi-vendor awards that meet state purchasing requirements and are negotiated as one-year contracts. Because ITS uses the request for proposals (RFP) process in compiling the EPL, the requirement (in both ITS regulations and state purchasing law) for an advertised competitive bid for purchases over \$10,000 is automatically met when an agency uses the EPL. ITS has an EPL for cellular telephones, as well as EPLs for other products such as pagers.

The Cellular EPL is available online and pricing is updated biannually. The most recent Cellular EPL was released effective July 2, 2001. The EPL may be used by agencies, governing authorities, universities, and community and junior colleges to make purchases in accordance with ITS policies.

Agencies PEER surveyed that have cell phones procured over half of their cellular calling plans through the Express Products List. Of the 459 calling plans agencies have, 288 were procured from the EPL that was in effect at the time of the survey, 83 from independent quotes, 80 from requests for proposals, and 8 from other sources.

According to ITS, the intent of the Cellular EPL is to provide an expedited procurement procedure through ITS's validation of offerings as having met state law and ITS's procurement requirements. The Department of Information Technology Services' procurement handbook indicates that the intent of all of ITS's EPLs is to publish the lowest and best offerings in compliance with the law. However, the Cellular EPL presents, in a consolidated form, all responses from service providers to a Department of Information Technology Services' request for proposals, regardless of their value, and recommends those carriers based on a negotiated ceiling price. Because EPL pricing is based on one unit, there is no certainty that an agency would benefit from purchasing in volume. Any volume purchasing benefits would have to be negotiated by the agency.

The Cellular EPL Does Not Promote Efficient Procurement

Because the Cellular EPL includes so many plans (122 in the EPL in effect at the time of the survey) and because agencies have broad discretion in selecting cellular plans, the Cellular EPL does not necessarily promote economical acquisition. When the

Department of Information Technology Services compiles the Cellular EPL, it negotiates only a ceiling price based on one unit, rather than on volume buying. Thus agencies must still contact the carrier for current pricing, talk time, and special promotions and are still free to choose a carrier or plan that is not listed in the Express Products List. ITS encourages users to secure what is "lowest and best" from the Cellular EPL based on their specifications and, for large purchases, to consider the alternative of bidding.

Because the Cellular EPL includes so many plans and because agencies have broad discretion in selecting cellular plans, the Cellular EPL does not necessarily promote economical acquisition.

Since all responses from carriers are included, the enormity of the Cellular EPL, in that it offers 122 different plans for its reader to review, evaluate and select from, makes careful review of its offerings a time-consuming endeavor. Ultimately, the agency must still contact the carriers to negotiate a contract. Since it is necessary to contact carriers for current information, some agency personnel may believe that it is less time-consuming to contact carriers first and solicit plan recommendations that best meet their specifications, rather than sifting through over one hundred plans.

The Cellular EPL is not necessarily a tool for economy; it is simply a compilation of plans, the use of which may not necessarily comply with the stated intent to select and publish the "lowest and best" offerings. Agency decisions based on use of the EPL produce a wide variety of plans. In reviewing costs associated with agencies' procurement of cellular telephone plans, PEER observed that broad ranges of costs are incurred for these plans. For evaluation purposes, PEER assigned all plans of state agencies into classes based on the number of minutes in the plan within levels of <100, 100-249, 250-499, 500-749, 750-1000, and >1000 minutes. (See "Effects of Agencies' Flexibility in Procurement," page 24.) Plan levels have a wide range of rates, rather than one rate for a particular plan level, that may prove confusing when looking for an efficient plan. For example, the 0-99 minute plans agencies reported as having been procured through the EPL have rates that range from \$.27 to \$1.50 per minute. Therefore, the potential exists for selection of a plan with rates that are on the high end for a particular level.

How do agencies ensure that procurement of cellular telephone service is necessary and that the telephones procured are used for agency business only?

No state-level controls or policies specifically outline standards of need or appropriate use of state-owned cellular telephones. The only state-level control PEER identified that addresses cell phone usage is a business expense reimbursement policy of the Department of Finance and Administration. Prior to reimbursement, state employees must identify calls made on their

personal telephones (including cell phones) as being state-business-related. All other policies addressing these matters are developed by the individual agencies.

Agency-Level Controls

In its survey, PEER asked state agencies about internal controls in place relative to policies and procedures for cellular phone acquisition and use within their agencies. Specifically, PEER asked agencies to provide copies of their policies and highlight all controls in place to ensure that employees use cellular phones only for appropriate state business. PEER also asked for a description of how the agency monitors and documents adherence to policies.

Because a specific policy presently does not exist at the state level for cellular phone acquisition and use and because the Department of Information Technology Services neither promulgates nor enforces a uniform policy, formulation of any such policy is agency-driven. Further, ITS does not recommend to agencies that they develop their own acquisition and use policies relative to cellular phones, nor does it make recommendations concerning the specific content of those policies.

Of 81 agencies with cellular phones, 29 report that they have formal use policies and internal controls in place to ensure that cellular phones are used only for appropriate state business.

Of eighty-one agencies with cellular phones, twenty-nine report that they have formal use policies and internal controls in place to ensure that cellular phones are used only for appropriate state business. This constitutes 36% of state agencies that report having cellular telephones. Few described how they monitor compliance with their policies.

In determining what would constitute the elements of a sound policy regarding cell phones, PEER considered what controls should be necessary to ensure that agencies acquire the services they need, that cell phones are only assigned to persons who need them, and that employees are informed of appropriate use. Such policies should also ensure that employees are properly trained to use the telephones, and should, where necessary, inform employees of potential risks associated with the use of cell phones.

Equipment and Purchasing Requirements

Fourteen agencies have policies with guidelines on procurement and equipment selection. Some examples of procurement policies are that the EPL should be used when procuring cellular phones and calling plans shall have the least amount of minutes needed.

Equipment policies, for example, address the necessity for ensuring compatibility of products and services when making

procurement decisions. Some agencies require formal requisition of new equipment and justification for the purchase.

Financial Control Policies

Twenty agencies have policies that address financial controls relative to cellular phone use. In some instances, agencies cited their policy as their control and did not provide evidence that they have a routine procedure (i.e., internal controls) in place to monitor compliance. For example, a policy that states abuse will result in some form of disciplinary action constitutes an abuse policy rather than an internal control. Another example is a policy that prohibits casual or personal use because it speaks to personal use rather than controls. PEER did not regard these types of policies as internal controls.

In most instances, employees must certify the calls made for state business and those for personal reasons. Both the certification by the employee and management review of monthly billing are most cited as agencies' internal controls on proper use.

Some other examples of agency controls are the requirement for an authorization code for placing long distance calls and verifying calls by comparing them to a travel schedule. A few agency policies require management approval for increases or decreases to calling plan minutes.

Unfortunately, very few agencies have internal control policies concerning cell phone use. Most agencies that say they have internal control measures for such simply review the bill monthly when authorizing payment; very few review billing over time to detect use patterns or compare usage to present service levels and calling plans.

Issuance of Cellular Phones

Sixteen agencies' policies include a statement of intended use (e.g., that the agencies issue cellular phones in order to enhance job performance or as a safety measure). Some agencies' policies require prior approval of management before a phone is issued. Some agencies' policies may further indicate cellular phones are assigned to personnel based on their job duties or it may limit use to specific personnel such as executives, public safety, or those on call.

Several agencies have a "check-out" system for some, if not all, of their cellular phones whereby an employee has temporary possession of a cellular phone. When necessary and upon supervisor approval, an employee signs for a phone and returns it upon completion of travel or work.

Certification of Employee

A written certification through signature that would show that the employee has read, understands, and agrees to the terms and conditions of a cellular phone use policy is absent from most agencies' policies. In fact, only four agencies require an employee signature on a copy of the policy to be placed in the employee's personnel file.

Employee Training

No agency's policies require an employee to receive training on safety rules and the proper care and operation of cellular phones before receiving a phone.

Proper Use of State Property

Twelve agencies' policies address the proper use and care of state-owned property. Some require a property in possession form to be completed prior to acquisition of the phone. Other examples are a requirement to not leave the phone unattended in a vehicle or anywhere outside immediate possession and that the employee must replace or repair the phone in the event of loss or damage. A few policies require reporting of theft, malfunction, or damage to equipment.

Appropriate Use Policies

Twenty-four agencies' policies state their intention for use of state-owned cellular phones is for conducting official state business only. These policies strictly prohibit calls to conduct routine personal business or for personal gain, or calls to friends or family, as well as lengthy and frequent calls. Some policies suggest and others may require that confidential calls are not to be made on state-owned cellular phones because they may be more easily intercepted. Some agencies prescribe that cellular phones are not to be used when a less expensive alternative is available.

Personal Use Policies

Twenty agencies' policies address personal use and require limited use of state-owned cellular phones and reimbursement to the state for personal calls. Policies on personal use vary, but most prohibit personal calls entirely, while a few permit calls made within reason or as long as the privilege is not abused, such as a call made to the employee's home when a travel delay or late return is imminent.

Most agencies require some form of certification for all state business calls. Some log and justify all business calls but most accept signature or an indication on the bill of which calls were personal. A few policies require explanation only when the plan minutes have been exceeded and reimbursement only when additional charges result.

Abuse Policies

Thirteen agencies' policies prohibit and broadly address abuse relative to inappropriate or improper use of state property. However, very few policies address what constitutes abuse and its subsequent consequences, which might result in disciplinary action against the employee. In most agencies, abuse will result in the loss of phone privileges, discipline, or dismissal.

Use While Driving or Operating Machinery

Only two agencies address driving or operating machinery while talking on a cellular phone. One agency does not recommend it and suggests leaving the road to make the call and the other requires use of hands-free devices.

How many calling plans are used by state agencies?

State agencies currently use at least 459 different calling plans.

PEER's survey requested cellular phone information on an own or lease per phone basis. Additionally, PEER requested information on the calling plans agencies have, the providers of those plans, and the number of phones on each of those plans. In an effort to compare and review plans for economy, the survey requested a description of the procurement method for acquiring each of the plans, as well as a description of the plan's features (e.g., monthly fees, minutes available, roaming charges, long distance, calling area).

As a result of Mississippi's decentralized procurement system,² at least 459 calling plans are currently in use by the responding agencies. Mississippi state government's decentralized procurement has produced a proliferation of plans and contracts, which, while giving agencies a broad range of choice, does not ensure the most economical procurement of services.

²States with *centralized* procurement have a single state agency that either procures the item or service or limits the discretion of other agencies in making purchases to a set number of providers. *Decentralized* procurement means that individual agencies choose service providers.

Coverage Area

Most plans used by the agencies offer calling areas in which the service provider claims to provide statewide coverage but with a disclaimer stating reception may be diminished by terrain, weather, signal strength, customer equipment, obstructions such as buildings and foliage, and other factors. Hence, no guarantee of coverage is available. Because these plans offer statewide coverage, there are no roaming or long distance charges within the state.

Service Providers

Two cellular phone carriers dominate the market with 80% of the state's business. The carriers providing the most service to cellular phones on state-owned calling plans are Cingular, with 49% of the market share, and Cellular South, with 31%, for a combined market share of 80%. Other carriers have a much smaller share of the market: Centurytel, 9%; Cellular One, 3%; and SunCom, 4%. Exhibit 3 on page 17 illustrates the percentage each carrier has of the state's business.

Calling Plans

For the 81 agencies with cell phones that responded, 459 calling plans were identified in state government.

Typical plans cost from \$20 to \$50 per month and range from having 100 to 450 minutes included in the plan. The cost of roaming and long distance on out-of-state long distance calls ranges from zero to \$.99 per minute.

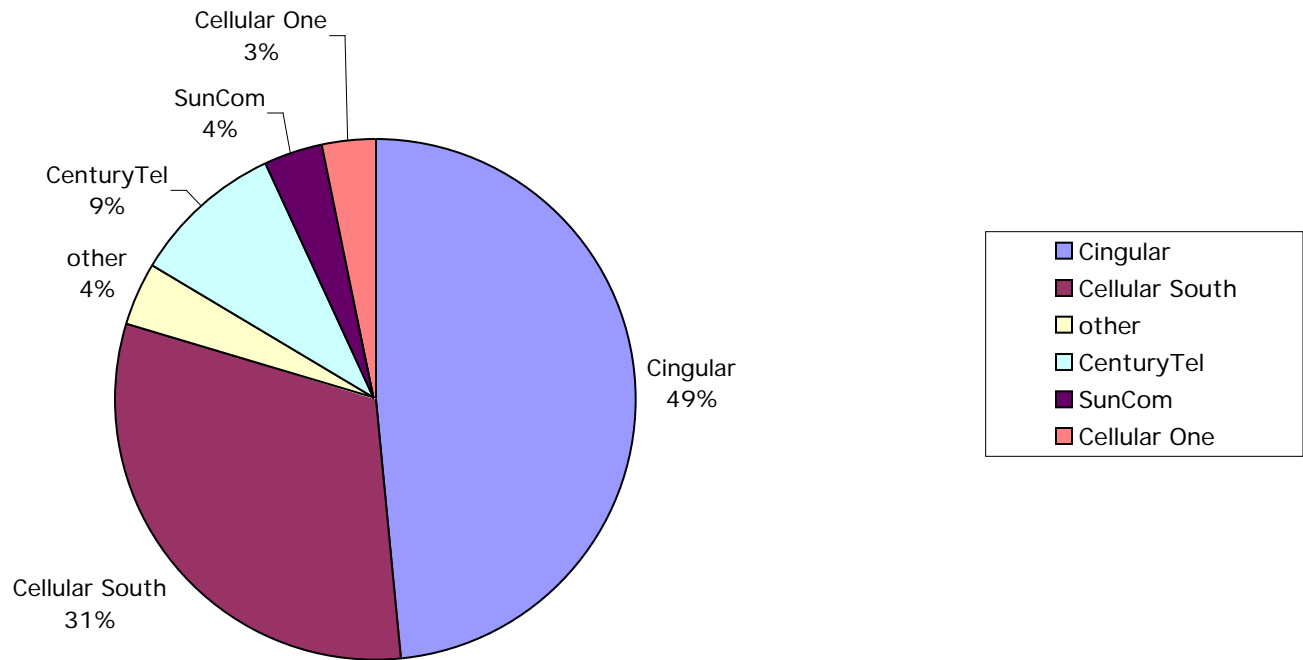
Analog vs. Digital Plans³

According to survey responses, twenty-one agencies use analog plans, with 265 phones on those plans. The analog plans are generally more expensive than digital plans, costing two to three times more, about \$.27 per minute.

Agencies have 3,176 phones on digital plans. Digital plans of more than 250 minutes tend to cost state agencies about \$.13 per minute, with less expensive per-minute rates for a larger number of minutes purchased.

³ Due to their methods of signal transmission, *analog* technology has a broader service area and *digital* technology produces better reception, less static, and is more secure.

Exhibit3: Providers' Market Share of Mississippi State Agency Cell Phone Plans, 2001 (Total number of Plans=459)



Economy Plans

Because most carriers offer statewide coverage and free roaming and long distance and most agency calling plans only differ in the number of plan minutes, the potential exists to consolidate some plans, earn quantity discounts, or pool plans so that minutes can be "shared." Carriers have several economical plans in each plan level, with rates that fall below the average cost of a digital plan at that level. For example, some agencies use "pooling plans," some of which are available through the EPL, and currently in use by a few agencies. Most carriers offer a variety of pooling plans to their customers, with a specified threshold of minutes to be shared among users in the agency.

The Department of Transportation and the Governor's Office are two of the agencies with increased economy because of pooling. The plans cost about \$10 per phone per month and \$.10 a minute for minutes included in the plan. One example of economy is evidenced by the Department of Transportation's expenditures relative to its 540 phones, the highest number of cell phones used by any agency. MDOT has a pooled plan of 80,000 minutes and two plans of 5,000 minutes per division, with total annual plan maintenance expenditures of just over \$100,000. In contrast, some agencies not on a pooled plan have a smaller number of cell phones but much higher total expenditures. For example, Mississippi State University has 335 cell phones on at least fourteen calling plans but spends over \$200,000 a year on its cell phone plans, double the amount that MDOT spends.

What is the potential liability for state agencies associated with state employees using cellular telephones while driving?

State Law and Potential Liability

Mississippi has not prohibited driving while talking on a cell phone.

Although some states have passed restrictive legislation or made it illegal to drive while talking on a hand-held cellular telephone, Mississippi has not. Further, no common law decisions from Mississippi courts hold that the use of a cellular telephone while driving constitutes an act of negligence.

Tort Liability in Other States

The director of Mississippi's Tort Claims Board notes no trend toward litigation against states because of employees' use of cellular telephones related to alleged vehicular negligence and

does not view potential liability as a major concern thus far. His opinion is based on the results of an online questionnaire to tort claims boards in other states. While only a few states responded to his inquiry, he is confident there have been no reported cases of litigation in other states stemming from accidents caused by driving while using a cellular phone.

However, some related accidents have occurred in other states that have since been settled by insurance companies. In Missouri, a state employee was involved in a one-vehicle accident with \$5,000 damage. In Maine, two Public Service Commissioners were involved in separate accidents while talking on cellular phones, one resulting in a bodily injury claim.

Agency Functions, Policies, and Potential Liability

Because Mississippi has no statewide policy addressing state employees' use of a cell phone while driving, agencies must assess their own risks and develop use policies accordingly.

Because agencies have different functions and a varying number of employees in the field, it is impossible to determine liability due to innumerable factors that cannot be foreseen. Consequently, it would be difficult to determine each state agency's potential liability because it is the unknown actions of an individual or unforeseen events and circumstances that could result in a tort claim. Because Mississippi has no statewide policy addressing state employees' use of a cell phone while driving, agencies must assess their own risks and develop use policies accordingly.

PEER Concerns Regarding Agencies' Management of Cell Phone Resources

In Mississippi, individual agencies have authority over their decisions regarding procurement and use of cell phones.

In collecting descriptive information on the procurement and use of cellular telephone services by state agencies, PEER noted several concerns regarding proper controls over property, expense reporting, and the use and procurement of services. At present, individual agencies have authority over their procurement and use decisions. The implications of this are that the state's interest in efficient and prudent use of cellular telephones is protected only insofar as each agency shows diligence and concern for protecting that interest. The following sections discuss several areas of concern regarding cellular telephone procurement and use wherein the state's interest could be better protected through more stringent regulation.

Oversight of Inventory

Agencies reported 231 phones not listed on inventory, believing that because the phone was free when the service was negotiated, that it was not state property to be placed on inventory.

In conducting its survey, PEER discovered that some agencies had not placed their telephones on inventory as required by MISS. CODE ANN. Section 29-9-1 et seq. Agencies reported 231 phones not listed on inventory, believing that because the phone was free when the service was negotiated, that it was not state property to be placed on inventory. (The actual number of cellular phones not on inventory could be higher because all agencies may not have disclosed this information on their survey responses.) However, MISS. CODE ANN. Section 29-9-1 (1972) states that because such equipment, regardless of cost, is under control of the agency, it must be inventoried:

*The state auditor of public accounts shall require the heads of all state agencies to make an inventory of all lands, buildings, equipment, furniture, and other personal property **owned by or under the control of the respective agencies**, except highway rights of way owned or acquired by the Mississippi state highway commission.*

Some agencies have added such equipment to inventory since completing PEER's survey form.

Inaccurate records prohibit the tracking of cell phones, which are rightfully state property. Thus this property could be misused or misappropriated. Also, the management information provided through these inaccurate records could affect agency managers'

capabilities in planning budgets and purchases and skews management information on per-phone costs.

Expenditure Reporting and Management Information Associated with Cellular Telephone Usage

All state agencies must report their expenditures through the use of expense codes. These codes should reflect as accurately as possible the type of item or service purchased and, sometimes, the use for which it was intended. The resulting data may then be used by the agency for budgeting and management purposes and, at the state level, by the legislative budget and appropriations committees in preparing a statewide budget and in the appropriations process.

Because DFA does not require agencies to use specific expense codes for cellular phone expenditures, agency personnel use their own discretion in selecting from several categories of expense codes.

The Department of Finance and Administration has allowed agencies multiple choices of expense codes to use in reporting cell phone expenditures. Because DFA does not require agencies to use specific expense codes relative to certain types of cellular phone expenditures, agency personnel use their own discretion in selecting from several categories of telecommunication expense codes.

PEER noted the following regarding agencies' reporting of cell phone expenditure information:

- *Lack of uniformity in allocation of expenditures*—Some agencies split their expenditures in reporting, while others do not. (For example, some agencies separate their telecommunications expenditures for their wireline phones from their cellular phones, while others do not.) According to PEER's survey, eight state agencies separate all of their expenditures for cell phone equipment into two or more expense codes and sixteen state agencies separate expenditures for cell phone usage into two or more expense codes. Some agencies separate expenditures for the purchase of cellular equipment into as many as three expense codes, into two expense codes for leases of equipment, and into as many as six expense codes for usage.
- *Differing interpretations of expense codes*—State agencies interpret the expense code descriptions differently and therefore may report the same types of cell phone expenditures in a different manner. For example, when Agency A buys a cell phone, it might record the expenditure under one code, but when Agency B buys an identical cell phone it records the expenditure under a different code.

Because agencies do not report cell phone expenditures in a uniform manner, the resulting management information could be inaccurate.

The following chart illustrates the type of confusion that can be caused by the above-noted problems in reporting cell phone expenditures. The chart lists the three major categories of cell phone expenditures (purchase of cell phones, lease of cell phones, and cell phone service/usage), gives the total number of expense codes agencies reported in the survey as having been used to report that type of expenditure, and gives examples of two different expense codes that agencies could reasonably expect to use to report that type of expenditure.

Type of expenditure	Number of expense codes that agencies have actually used to record this type of expenditure, according to survey	Two examples of expense codes that could be used by an agency for reporting the expenditure
purchase of cell phones	11	Mobile Voice Communication Equipment
		Office Machines-Furniture, Fixtures, and Equipment
lease of cell phones	3	Rental-Communications Systems-Other Vendor
		Rental of Other Equipment
cell phone service/usage	15	Public Network Access Charges
		Rental of Usage Time

The last expense code noted on the chart as an example of a code used for cell phone service/usage, "Rental of Usage Time," has also been used by agencies to report expenditures for purchase and lease of cell phones. This code obviously does not address the purchase of equipment.

Agencies' lack of uniformity in allocation of cell phone expenditures and differing interpretations of expense codes could result in inaccurate management information, which could affect agency managers' capabilities in planning budgets and purchases and the Legislature's ability to exercise oversight of these matters.

Effect of Decentralized Procurement on Prices

PEER surveyed the four contiguous states to determine how they procure cellular phones for their state agencies and whether the states promulgate a state-level policy on cellular phones. Alabama, Louisiana, Tennessee, and Arkansas each have a centralized procurement system, managed through statewide contracts with carriers. Although the state-level acquisition policy in these states requires agencies to use specified carriers, these states have not promulgated state-level appropriate use policies.

Surrounding states have centralized procurement systems for cell phones, with each state's Office of Purchasing or data processing agency contracting with one or a limited number of service providers. Thus, all of the surrounding states' agencies have single negotiated cell phone service rates of \$.17 or less per minute for all calling plans. Although some Mississippi agencies have rates within some calling plan ranges that are this low or lower, some agencies also pay much higher service rates—up to \$1.50 per minute.

Some states have a single carrier for the entire state while others have regional carriers. In both cases, agencies have one carrier for their service in the state or region in which the agency is located; thus, the agency is limited to one service provider for cellular service.

Mississippi has a higher average state agency service rate for cellular phone service than all four of the surrounding states.

PEER compared cell phone service contract rates of surrounding states to the average rate of Mississippi's state agency calling plans. Of Mississippi, Alabama, Arkansas, Tennessee, and Louisiana, Mississippi had the highest average service rate for cellular phone service. (See Exhibit 4, page 24.) Tennessee and Arkansas have one vendor, one plan, and one fixed rate. Mississippi has the most vendors and plans, with service rates ranging from \$.02 to \$1.50 per minute. Mississippi's average is \$.22 per minute, at least \$.05 to \$.12 higher than that of other states. (See "Effects of Agencies' Flexibility in Procurement, page 24.)

Exhibit 4: Cell Phone Rates, Number of Plans, and Number of Vendors, Mississippi and Surrounding States

State	Procurement Method	Rate (Cents per Minute)		Number of Plans	Number of Vendors
MS	non-centralized	22	*	467	9
AL	centralized	10		10	3
AR	centralized	11		1	1
TN	centralized	14.5		1	1
LA	centralized	17	**	167	8

*Average plan rate of the aggregate

**Average plan rate of 167 plans

NOTE: In states with centralized procurement, procurement is administered by a single procuring agency via statewide contracts. In states with non-centralized procurement, the agency handles its own procurement.

SOURCE: PEER contacts with surrounding states.

Effects of Agencies' Flexibility in Procurement

Mississippi state government's decentralized procurement of cell phones has produced a proliferation of calling plans and contracts.

Mississippi state government's system of decentralized procurement has produced a proliferation of calling plans and contracts that, while giving agencies a broad range of choices, does not ensure the most economical procurement of services.

In reviewing the costs associated with agencies' procurement of cellular telephone calling plans, PEER determined that broad ranges of costs are incurred for these plans. For evaluation purposes, PEER assigned all plans of state agencies into classes based on the number of minutes in a plan (e.g., less than 100 minutes, 100 to 249 minutes). Exhibit 5, page 25, shows these categories and the number of plans in each category.

Exhibit 5: Number of Cell Phone Plans in Each Category, Based on Number of Minutes

Level Based on Minutes	Total Number of Plans
<100	59
100-249	104
250-499	127
500-749	42
750-1000	37
>1000	27
Unspecified	63
Total	459

Note: "Unspecified" denotes plans with insufficient information for analysis.

SOURCE: PEER survey of state agencies.

As examples of how agencies have chosen uneconomical plans, one agency reports using a 150-minute plan for \$44.94, whereas other agencies have plans reported as procured through the EPL with plans for the same number of minutes for \$25.00 and \$29.95. Another agency reports using a 250-minute plan for \$50.00, whereas the EPL includes plans for the same number of minutes for \$29.99 and \$35.00.

Excessive costs may occur because of a failure on the part of individual agencies to stay abreast of savings opportunities in an ever-changing and evolving industry and to determine whether current cellular phone service and related costs best meet present agency needs, thus resulting in the renewal of uneconomical contracts, rather than an annual renegotiation of contracts for service. The economy of the plan depends on the agency's use pattern; most are not monitoring use rigorously.

PEER notes that in some cases excessive costs may also be due to the continued use of analog plans, which were popular at one time when digital service was not available statewide. Some

agencies with analog plans may have continued this type of service because of their investment in older technology.

PEER contacted some of the agencies identified as having uneconomical plans to inquire about their particular needs and plan choices and a few reported that the PEER survey prompted them to review their plans and have since negotiated new contracts for their phones. Others noted that they plan to review their plans prior to contract expiration.

In light of the experience of other states, Mississippi could possibly achieve some economic benefits from making changes in its methods of procuring cellular telephone service.

Effect of Lack of Comprehensive Policies

Agencies generally lack comprehensive policies regarding need for cell phones and monitoring of use.

As noted above, no state-level policies exist governing this subject matter. Each agency is left with the responsibility of setting policy to address the need for telephones, the assignment of telephones, and oversight of employees' use of telephones. PEER noted that agencies generally lack comprehensive policies to ensure that cellular telephones are purchased for those who need them and that agencies actually monitor usage to insure that the person assigned a telephone is using the cellular phone for business purposes only. Further, PEER is concerned that agencies do not review cell phone use patterns to ensure that the most economical plans are being procured. Because of the amount expended annually on cellular telephone service for state agencies, PEER considers oversight of these devices to be a matter of state importance.

Recommendations

Oversight of Property

1. The State Auditor should direct all agencies to list cellular telephones and other wireless communication devices on inventory regardless of whether they were provided free or are not currently in use.

Expense Reporting

2. The Department of Finance and Administration should direct state agencies concerning the preferred code or codes to be used for charges for cellular telephones and for other forms of wireless communication.

Service Procurement

3. The Legislature should require that the Department of Information Technology Services establish general policies for agencies to assess a need for cellular phones or other forms of wireless communication service based upon establishment of the following:
 - whether a less expensive telecommunications alternative is suitable and/or available;
 - whether a cell phone issued to an employee would improve job performance and productivity through better communicative ability and/or mobility;
 - whether the agency's needs can be met with present service levels;
 - whether the agency's use patterns provide for a limited number of cell phones that can be checked out by employees on a daily basis;
 - whether quantifiable benefits are associated with the procurement of cellular service and whether cellular service provides more efficient or effective service delivery; and,
 - whether quantifiable savings associated with the use of cellular telephones result in a reduction in other costs.

Each agency should establish specific guidelines and report the quantifiable benefits and savings that it realizes from the use of cell phones and other forms of wireless communication in its annual report to the Legislature.

4. The Legislature should require the Department of Information Technology Services to develop a single or limited number of contracts with cellular service providers in an attempt to reduce service plan costs for state agencies. In developing these contracts, the department should take into consideration agencies' need and use patterns.

Further, ITS should consider whether it is appropriate to establish a state contract rate that any provider may meet or to procure plans on the basis of a lowest and best bid. The department should take steps to restrict state agencies from using any form of cellular or other wireless communication service except for those plans approved by ITS.

Use Policies

5. The Legislature should amend MISS. CODE ANN. Section 25-53-107 to require the Department of Information Technology Services to develop a use policy for all state agencies for all forms of wireless communication that, at a minimum, establishes the following:
 - a policy restricting personal use to emergencies;
 - a requirement that any person assigned a cellular telephone prepare and maintain a telephone log documenting each telephone call made on a cellular telephone, the purpose of the call, the person to whom the call was directed, and the time of the call. The policy should include a provision that agencies involved in law enforcement or protection of public health and safety may receive a waiver for personnel directly involved in providing such services.

ITS should require all agencies to adopt the recommended policy or to develop a policy no less stringent than the policy proposed by ITS.

Agency Responses



David L. Litchliter, Executive Director

Suite 508, 301 North Lamar Street
Jackson, MS 39201-1495
Phone: 601-359-1395
Fax: 601-354-6016

November 2, 2001

Dr. Max Arinder, Executive Director
PEER Committee
3rd Floor Woolfolk Building
501 North West Street
Jackson, MS 39201

RE: Department of Information Technology Services (ITS) response to PEER Committee report on State Agencies' Use of Cellular Telephones

Dear Dr. Arinder:

ITS appreciates the opportunity you have provided for us to respond to PEER's recommendations in the above referenced report. These comments are based on our review of the draft report in PEER's offices and on the information contained in the Executive Summary.

Background

Express Products Lists (EPLs) are procurement instruments developed by ITS to address commodity purchases of technology by state agencies and institutions as well as other public entities within Mississippi. These lists are compilations of bids competitively solicited by ITS. EPLs are intended to expedite routine procurements of such technologies as microcomputers, servers, printers, pagers, cellular telephones and services, and single and multi-line telephone instruments.

When state agencies and institutions began to expand their use of cellular telephones several years ago, ITS developed a Request for Proposals (RFP) to solicit proposals for cellular phones and associated calling plans from valid vendors offering cellular services within the state.

The Cellular Express Products List may be used in the acquisition of cellular telephones, air-time, and services. The maximum cost of all products and services purchased using the Cellular EPL must not exceed \$100,000 per fiscal year for a given agency without an additional approval or competitive process through ITS. This EPL is education rate (E-rate) eligible, so schools and libraries can qualify for discounts for items purchased from this list that are E-rate reimbursable.

Initially, cellular coverage areas in Mississippi varied greatly from vendor to vendor, and plan selection was largely driven by the geographic area in which service was required. To date, ITS has not eliminated any valid proposer from the EPL to ensure that customers have a full range of choices for the best coverage.

The Cellular EPL is published with instructions for its responsible and cost-effective use. Because an EPL is general in nature, the purchaser must accept the responsibility for evaluating the offerings and selecting the products and services that best meet the agency's needs. EPL pricing represents not-to-exceed proposals, and the customer must also take responsibility for aggressively seeking the best value, including negotiating for volume discounts.

Response to PEER Recommendations

PEER Recommendation # 1:

Not an ITS issue; under the purview of the State Auditor.

PEER Recommendation # 2:

Not an ITS issue; ITS is available to work with the Department of Finance and Administration on request to revise the coding structure and to incorporate these object codes into the technology planning process.

PEER Recommendation # 3:

ITS will prepare a draft of recommended policies and guidelines to assist agencies in assessing the costs and benefits of cellular service in meeting various business requirements. Agencies would then be responsible for developing detailed policies and guidelines concerning the justification of cellular services for specific situations.

PEER Recommendation #4:

ITS will allocate additional resources to the Cellular EPL process so that more evaluation and assessment of plans and services can be performed prior to the publication of the EPL. Plans that are not competitive will be eliminated before publication. By promoting more competitive pricing during the development of the EPL, this change should address the extremes that were found in the PEER survey. However, agencies will continue to have responsibility for aggregating their cellular requirements, documenting the business requirements for various categories of cellular users, investigating various plan options, and negotiating volume discounts with the selected vendor. Each agency must be held accountable for following these procedures and obtaining the best combination of price and performance for their individual business needs, via the audit process.

ITS will also continue to work with both vendors and customers to ensure that plans are reviewed at the end of each contract period. At the end of any contract, the existing plan will not be renewed unless that plan is either on the current Cellular EPL or is more competitive than plans currently offered. If the old plan is more cost-effective for the agency than any new plan, the contract may be renewed. An old plan will not be continued on a monthly basis or without the agency's explicit analysis and review of current and new offerings. This mechanism should help prevent the problem of agencies inadvertently continuing with plans that are no longer competitive simply because they have not reviewed and reassessed the market.

Please note, however, that, by law, agencies are not required to come through ITS or use any formal competitive mechanism for purchases under \$10,000. Many agencies' total cellular usage is below this threshold. For cellular services totaling \$1,500 or less per year, agencies may purchase any plan. For cellular services totaling more than \$1,500 but less than \$10,000, agencies can contract for cellular service after obtaining two written quotes. ITS cannot monitor or impact cellular purchases in this price range unless the agency customer chooses to use the Cellular EPL or to seek ITS assistance.

PEER Recommendation #5:

ITS has continually advocated that every agency develop, implement, and enforce an acceptable use policy governing the use of the State's technology infrastructure. Such a policy should include, but not be limited to, the acceptable use of personal computers and associated software and peripherals, email, Internet usage, desktop telephones, pagers, faxes, and cellular telephones. Each employee should be required to read and sign the policy. Agency heads should then be held accountable for the consistent enforcement of the policy via the audit process.

ITS has an acceptable use policy for ITS employees that can be made available as a template for agencies to use as a guideline for developing their own customized acceptable use document.

ITS further recommends, in lieu of requiring that all cellular calls be manually logged, that agencies be required to obtain detailed monthly billing for every cellular account. Each cellular user should then be required to verify and sign off on the detailed billing, certifying that the calls were made by the individual and were work-related. This information should then be validated by the supervisor.

Conclusions

ITS believes that all State infrastructure resources should be covered by an acceptable use policy that, among other guidelines, stresses to employees that these resources are provided at the State's expense as tools for accomplishing the business missions of their agencies. All such resources are for business use only. More than incidental personal use of desk telephones, email, Internet services, and cellular telephones should be prohibited. Excessive personal use of all these resources costs the state, due both to direct usage charges and to requiring the State to build a larger infrastructure to handle the volume of personal usage. Infrastructure costs for larger Internet connections and more lines for desktop telephone due to personal use of these resources could potentially be far more expensive than the costs incurred for cellular telephone abuse.

ITS met with the incumbent Cellular EPL vendors on Friday, November 2, 2001, for a vendor's conference and discussed some of the State's concerns, issues, and requests about competitive pricing. ITS also conveyed to these vendors that there will be some changes in the way information is collected and evaluated in the next Cellular EPL update (due December 4, 2001). These changes should address many of the concerns related to competitive pricing cited by PEER. Among the modifications to the process being considered will be incorporating opportunities for vendors to provide better pricing and more competitive plans on a monthly basis during the EPL cycle.

Again, ITS appreciates the opportunity to provide this input and response. We would like to commend PEER for an excellent job of collecting, compiling, distilling, and reporting a large amount of information on complex areas of technology and public procurement.

Sincerely,



David L. Litchliter



STATE OF MISSISSIPPI
DAVID RONALD MUSGROVE, GOVERNOR

DEPARTMENT OF FINANCE AND ADMINISTRATION

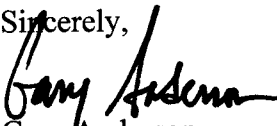
GARY ANDERSON
EXECUTIVE DIRECTOR

November 1, 2001

Dr. Max Arinder, Executive Director
Legislative PEER Committee
Post Office Box 1204
Jackson, MS 39215-1204

Dear Dr. Arinder:

The Department of Finance and Administration appreciates being given the opportunity to review the draft report on agencies' use of cellular telephones and to provide a response. We recognize that the demand for this technology has increased significantly over the last several years resulting in the need for more detailed information of the costs. Working with the Office of the State Auditor and the Department of Information Technology Services, DFA will seek the most efficient way for agencies to record and report cellular phone usage costs.

Sincerely,

Gary Anderson

GA/lm



**STATE OF MISSISSIPPI
OFFICE OF THE STATE AUDITOR**

**PHIL BRYANT
AUDITOR**

October 26, 2001

Mr. Ted Booth
PEER Committee
501 N. West St., Suite 301
Jackson, MS 39201

RE: State Agencies' Use of Cellular Telephones

Dear Mr. Booth:

Thank you for the opportunity to review the confidential draft of the PEER audit regarding state agencies' use of cellular telephones.

Of particular concern to PEER and to this office was the finding that, in certain cases, cellular phones were not placed on inventory. Many vendors offer "free phones" with a service contract and an oversight of placing these phones on inventory has occurred.

Most entities do follow the proper procedures, however, I have distributed a memorandum to **all** state agency and university property officers advising them of the proper method of placing **any** type of donated equipment on inventory.

If I can be of further assistance, please contact me at 576-2712.

Sincerely,

A handwritten signature in black ink that reads "Bill Pope".

Bill Pope, Director
Division of Property

cc: Phil Bryant, State Auditor
Norman McLeod, Deputy State Auditor



STATE OF MISSISSIPPI
OFFICE OF THE STATE AUDITOR
PHIL BRYANT
AUDITOR

MEMORANDUM

To: State Agency and University Property Officers

From: Bill Pope, Director *BP*
Division of Property

Date: October 26, 2001

Re: Unrecorded Inventory

Miss. Code §29-9-11 requires that "items purchased or otherwise acquired" shall be added to inventory. All donated or transferred items valued at \$500 or greater and items, regardless of value, which are included on the SPO exception list¹ are required to be placed on inventory at the fair market value.

I have recently been advised that, in some cases, a particular asset has not been properly added to property inventories. **Cellular phones**, given to an entity at no charge for contracting services, are required to be placed on inventory. The "free phone" is categorized as a donation and donations are inventoried at fair market value at time of donation. The vendor supplying services, which includes a "free phone", can give you a value for the phone for the purpose of placing the phone on inventory.

If you need assistance regarding this matter, please call me at 601-576-2712.

¹ Weapons, Cameras, Tape Recorders, Radio Equipment, Typewriters, Appliances, Televisions/VCRs, Lawn Equipment, Sterling Silver, **Cellular Phones**, Computer Components, Chain Saws, Air Compressors, Welding Equipment, Generators, Motorized Vehicles, Dictating Equipment, and Antiques.

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