

TO: ALL COUNTY PERSONNEL

**FROM: VERDENIA C. BAKER
COUNTY ADMINISTRATOR**

PREPARED BY: RISK MANAGEMENT

SUBJECT: TWENTY-FOUR (24) HOUR VEHICLE ASSIGNMENTS

PPM #: CW-O-021

ISSUE DATE
July 10, 2019

EFFECTIVE DATE
July 10, 2019

PURPOSE:

To establish the authority, criteria and procedures for twenty-four (24) hour vehicle assignments to Board of County Commissioners' employees.

UPDATES:

Future updates to this PPM are the responsibility of the Manager of Employee Safety/Loss Control (ES/LC) under the authority of the Director of Risk Management.

AUTHORITY:

- Palm Beach County Administrative Code, Section 305.14 (Overnight and Sub pool Vehicles) as may be amended
- Applicable Internal Revenue Service (IRS) publications:
 - > 26 CFR 1.274-5 - Substantiation Requirements
 - > 26 CFR 1.132-5 - Working Condition Fringes
 - > 26 CFR 1.61-21 - Taxation of Fringe Benefits
 - > IRS Publication 15B - Employer's Tax Guide to Fringe Benefits
 - > IRS Publication 525 - Taxable and Nontaxable Income
- PPM # CW-O-004

POLICY:

General

The County Administrator may assign vehicles on a 24-hour basis to full time County employees occupying specific positions meeting the criteria established herein.

Responsibility for the management of the 24-hour vehicle assignment program is hereby assigned to the Risk Management Department. Within Risk Management, the Employee Safety/Loss Control Section is responsible for the administration of this program.

Exceptions to this PPM will be at the discretion of the County Administrator.

Criteria for Approval

Department Directors will identify the positions to be recommended for 24-hour vehicle assignment and provide appropriate justification for such assignments. It must be clearly documented that such assignment is of benefit to the County and the same degree of efficiency/effectiveness cannot be achieved by use of a County sub-pool vehicle during the normal workday or returning to a sub-pool vehicle to obtain an appropriate vehicle. Any increased efficiency/effectiveness/time savings/etc. must be weighed against the increased liability and the cost incurred by the County in gas and maintenance for the home to work travel. An assignment of a 24-hour vehicle will require that such vehicle be used by the employee to commute to and from work. In no cases will an assignment be made as a benefit of employment or convenience to the employee.

Examples of positions for consideration and related documentation required for approval include:

Positions assigned area/field responsibilities:

Distances from home to the work area and from a sub-pool compound to the work area must be compared. It must be shown that the mileage and time from a sub-pool to the work area significantly exceeds that from home to the work area and, thus, the 24-hour assignment is clearly in the best interest of the County. The assignment must be reevaluated upon a change of residence or work area.

Positions, which historically have been called out frequently on emergencies during non-working hours:

It must be demonstrated that specific equipment and/or communications is required and because of residence/sub-pool locations, it is not practical to obtain a sub-pool vehicle.

Further, it must be clearly established that the individual is generally available and why it is not reasonable to assign this response requirement on a rotating basis with an individual actually in an “on call” status.

NOTE: “On-call” status exists when an individual is assigned and will respond during a specific period of time. Normally, this status is identified to the Emergency Operations Center (EOC), or other identified County offices, and contact is made through the EOC. It means that the individual is in the area, can be contacted at a specific telephone number, and will respond upon contact. The willingness to respond if contact can be established does not constitute an “on-call” status.

Positions for which a 24 - hour vehicle assignment is provided under a contract.

Usage

1. Authorized use of a 24-hour assigned vehicle includes, in addition to official business transportation during working periods, transportation to and from work/home, short personal en route stops, and meal requirements during the working period.
2. Unauthorized use is any personal use not authorized by this PPM or use otherwise prohibited by law. Some examples of unauthorized use include, but are not limited to: transporting relatives, friends or hitchhikers; transporting other County employees for non-business related purposes and driving after any consumption of alcoholic beverages or use of illegal substances.
3. In accordance with PPM CW-O-004, accidents involving unauthorized use of County vehicles may warrant disciplinary action. If necessary, disciplinary action will be taken by the department in accordance with the merit system rules (if applicable) and will be discussed with the Human Resources Department prior to issuance.
4. Smoking is prohibited in County vehicles.
5. The use of cell phones (including texting, emailing, etc.) is prohibited while operating a County vehicle, unless such use is for the purpose of emergency communication by Fire Rescue personnel. If a non-emergency, call is received via a cell phone and/or hands free device, the driver should immediately and safely pull over in a safe location and park the car to accept the call.

Liability

Employees who are assigned a 24-hour vehicle must be aware of a Florida District Court of Appeal ruling, *Garcia v. City of Hollywood*, 966 So.2d 5 (Fla. 4th DCA 2007). This ruling affects the County's exposure to liability for employees operating a county-owned vehicle while coming to or going from work, or otherwise operating the vehicle outside the course and scope of his or her duties. Due to the holding in this case, employees **are potentially open to personal liability if they become involved in an accident while using the county's vehicle for anything other than official county business.** An employee is not using a county vehicle for official county business any time that the employee is using the vehicle while not actively involved in performing the essential functions of their job.

Employees with 24-hour vehicle assignments should **contact their personal insurance agents** to ensure that their personal automobile insurance policy covers them in the event they are involved in an accident while driving a non-owned *government* vehicle that is "furnished or available for their regular use." This additional rider is commonly referred to as "Extended Non-Owned Coverage."

Recordkeeping

Each Department shall maintain a copy of the original request for 24-hour vehicle assignment as well as a copy of the original request for any modifications to, or revocations of, a 24-hour vehicle assignment.

Risk Management shall maintain all original requests and documents received concerning requests, modifications, or revocations of 24-hour vehicle assignments.

RESPONSIBILITIES:

County Administration

County Administration is responsible for approving or denying all requests for 24-hour vehicle assignments received from Risk Management.

Department Directors

Department Directors are responsible for:

1. Ensuring that the 24-hour vehicle assignments within their departments meet the criteria established in this PPM;
2. Ensuring that all 24-hour vehicle assignments are reviewed on an annual basis to confirm that all assignments are justified. ;
3. Reviewing the annual report provided by Risk Management of all 24-hour vehicle assignments and revoking those which do not meet the established criteria;

4. The Fleet Management Division must be notified of any revocation and the vehicle must be returned to the Fleet Management Division (unless the vehicle is retained as a sub-pool vehicle by the Department).
5. Assigning 24-hour vehicles on a rotation basis to meet Department needs and/or emergencies following the procedures as outlined below, and ensuring authorized use of assigned vehicles;
6. Terminating assignment and/or taking disciplinary action, as appropriate, in case of unauthorized use.
7. Determining if employees receive a taxable benefit according to IRS rules (refer to **Attachment A**).

County Employees

County Employees are responsible for:

1. Complying with the provisions of PPM CW-O-004, Vehicle Safety Program, and following all vehicle safety rules and regulations as set forth by the Risk Management Department;
2. Signing an acknowledgement for receipt of the vehicle that confirms the employee's understanding of these rules, which will be maintained by Risk Management. (refer to Attachment B):
3. Immediately reporting all vehicle accidents to the County's Emergency Operations Center;
4. Operating all vehicles, trucks, and equipment in a safe manner;
5. Checking and reporting vehicle condition as required by PPM CW-O-004 (Vehicle Safety Program – Driver Rules and Regulations);
6. Displaying safe driving habits and courtesy which will reflect favorably on Palm Beach County and its employees;
7. Maintaining the required logs/records specified herein and submitting them to their Department for review;
8. Obeying all traffic rules and regulations;
9. Ensuring that the "How's My Driving" bumper sticker is present and not defaced in any way;
10. Using the vehicle to commute to and from work.

11. Must return the 24-hour vehicle to the department timely when the 24-hour assignment ends.

Employee Safety/Loss Control (ES/LC)

ES/LC is responsible for:

1. Ensuring that drivers recommended for approval by the County Administrator do not have any outstanding driving issues (e.g., infractions or County points that may impact their driving status);
2. Maintaining a database tracking 24-hour vehicle drivers;
3. Providing a yearly report to Department/Division Heads detailing the 24-hour assignments in each Department;
4. Modifying the database and approvals based on information provided by Department/Division Heads; and
5. Providing a current report to Administration listing the current employees who have 24-hour vehicle assignments, if requested.

PROCEDURES

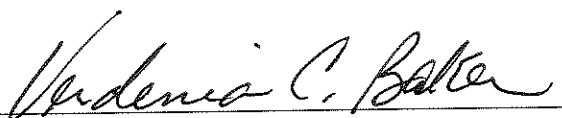
Assignment

1. All 24-hour vehicle assignment requests must be made by completing the “Twenty-Four Hour Vehicle Assignment Request” form (available from the “Risk Management/Forms” section of the County’s Intranet home page). The Department Director will justify the recommended 24-hour vehicle assignment based on the established criteria in this PPM. The form will be sent or emailed to Risk Management for processing.
2. Risk Management will verify that the employee is an approved County driver and does not have any outstanding driving issues (e.g., infractions or County points that may impact their driving status), and that the justification provided substantiates the assignment of a 24-hour vehicle. Approved requests will be forwarded to County Administration for review.
3. County Administration will approve or deny the request and return it to Risk Management for management and retention.

4. Risk Management will forward a completed signed copy of the approved driver form to the requesting Department and the Payroll Department.
5. Approvals go to the Department, denials are entered into RIMS.

Reporting

1. ES/LC will provide a yearly report to Department/Division Heads detailing the 24-hour assignments in each Department.
2. Departments will review the annual report provided by ES/LC and revoke those assignments, which do not meet the established criteria. Departments will then notify Risk Management confirming the report as submitted, or indicating any revocations.
3. Upon request, ES/LC will provide a current report to Administration listing the current employees who have 24-hour vehicle assignments.


VERDENIA C. BAKER
COUNTY ADMINISTRATOR

Supersession History:

1. PPM #CW-O-021, effective 8/1/1988
2. PPM #CW-O-021, effective 11/15/1988
3. PPM #CW-O-021, effective 11/22/1991
4. PPM #CW-O-021, effective 7/1/1994
5. PPM #CW-O-021, effective 8/1/1997
6. PPM # CW-O-021 effective 3/1/2012
7. PPM # CW-O-021-effective 3/26/2013

ATTACHMENT A

TAXABLE BENEFIT DETERMINATION

Use of an assigned vehicle to commute to and from work is a taxable benefit, unless the assigned 24-hour vehicle is a “Qualified Nonpersonal Use Vehicle” according to IRS rules (e.g., certain Fire Rescue/Public Safety vehicles which are marked and used by individuals who are on call at all times). The taxable or non-taxable benefit for each employee must be noted with a justification on the application for approval. The taxable benefit will be added to the employee’s taxable wages. (Refer to IRS publication 15B - “Employer’s Tax Guide to Fringe Benefits,” currently available at the following link: <http://www.irs.gov/pub/irs-pdf/p15b.pdf>.)

In most cases, for certain, “Control Employees” such as elected officials and well compensated employees (\$145,700 in 2011 and subject to change thereafter); the total lease value of the assigned vehicle will be used to determine the taxable benefit. Personal tax advice should be sought by the employee to determine if Employee Business Expense Form (2106) should be filed to reduce taxable income for the percentage of personal use associated with the vehicle (commuting from home to work, for example).

Employees who are not Control Employees will be taxed for their take-home vehicle under the “Commuting Rule.” Under this rule, the value of the take-home vehicle is determined by multiplying each one-way commute (that is, from home to work or from work to home) by \$1.50. This amount must be included in the employee’s wages as taxable income.

ATTACHMENT B

24-Hour Vehicle Assignment Insurance Information Acknowledgment

All Employees who are approved to use County Vehicles on a 24-Hour basis (take home vehicles) should be aware of a Florida Fourth District Court of Appeal ruling, Garcia v. City of Hollywood, 966 So.2d 5 (Fla. 4th DCA 2007). This ruling, which has not been amended by subsequent case law, affects the ability of the County to provide you with liability coverage while you are operating a county-owned vehicle while coming to or going from work, or otherwise operating the vehicle outside the course and scope of your duties. In Garcia, the Court found that a Hollywood police sergeant was **NOT** in the course and scope of his duties when driving to work in a “marked” police cruiser. As a result of that ruling, the City of Hollywood was not held liable for injuries sustained by a minor when struck by the city-owned vehicle being operated by the sergeant. This court decision left-the sergeant open to a lawsuit against him personally.

Due to the implications caused by this case, and its effect on the County’s ability to defend you, **as it now stands you are potentially open to personal liability if you become involved in an accident while driving to and from work, or are otherwise using the County’s vehicle for anything other than official County business.** In other words, at any time you are not actively involved in performing the essential functions of your job.

All employees who drive take-home vehicles should **contact their personal insurance agents** to ensure that their personal automobile insurance policy covers them in the event they are involved in an accident while driving a non-owned *government* vehicle that is “furnished or available for their regular use.” This additional rider is commonly referred to as “Extended Non-Owned Coverage.” The premiums for this liability insurance rider are typically quite reasonable, ranging in cost from \$15 - \$60 annually

By signing below, you are indicating that you have read this acknowledgment, and you understand the personal risk you may be assuming by driving a County vehicle for anything other than official County business. Please keep a copy of this memorandum for your records, and forward the original back to the Risk Management Department (Employee Safety / Loss Control).

Scott Marting,
Director, Risk Management

Name – Print

(Signature)

Date