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What States and Locals Need To Know To Prepare for Rollout of Nationwide Public Safety Broadband Network Deadlines and Decisions Approaching

Congress passed groundbreaking legislation for a new Nationwide Public Safety Broadband Network (NPSBN) on February 17, 2012. The Middle Class Tax Relief & Job Creation Act of 2012 was signed by President Obama on February 22. The legislation (Public Law 112-96) allocates the D Block spectrum to public safety, provides \$7 billion federal funding for the network, and establishes a nationwide governance structure, the First Responder Network Authority-(FirstNet). The FirstNet Board is scheduled to be appointed by August 20, 2012.

Initial Start-Up Tasks Are Complete: One of the first requirements of the Act established an Interoperability Board within the Federal Communications Commission (FCC). Within 90 days of enactment, the Interoperability Board was required to develop minimum technical requirements to ensure a nationwide level of network interoperability, in consultation with the National Telecommunications and Information Administration (NTIA), National Institute of Standards and Technology (NIST), and the Department of Homeland Security's Office of Emergency Communications (OEC). These recommended minimum technical requirements have been submitted and approved by the FCC.

What Is FirstNet: FirstNet, an independent authority within NTIA, will be headed by a 15-member Board, which will hold the license to the entire 20 MHz of public safety broadband spectrum, and will comprise the Secretary of Homeland Security, Attorney General of United States, Director of Office of Management and Budget, and 12 individuals to be appointed by the Secretary of Commerce. These appointees will include at least three individuals to represent the collective interests of states, locals, tribes, and territories, and at least three individuals who have served as public safety professionals. The appointments will seek to provide a balance of geographical and regional, and rural and urban representation with each Board member possessing at least one of the following qualifications: Public safety, technical, network, or financial expertise.

FirstNet Must Consult with the States: The Act first requires FirstNet to consult with regional, state, tribal, and local jurisdictions on the following issues.

- Construction or access to the core network and any radio access network build out;
- Placement of towers;

- Coverage areas of the network, whether at the regional, state, tribal, or local levels;
- Adequacy of hardening, security, reliability, and resiliency requirements;
- Assignment of priority to local users;
- Assignment of priority and selection of entities seeking access to or use of the nationwide interoperable NPSBN; and
- Training needs of local users.

The Act requires NTIA to establish an implementation grant program for the states. NTIA issued a Request for Information (RFI) to research the best way to do this, which closed on June 15, 2012. The RFI covered the consultation process, existing public safety governance and planning activities, leveraging existing infrastructure, grant activities, and funding allocation and match. The implementation grant program must assist state, regional, tribal, and local jurisdictions to identify and plan the most effective way to utilize and integrate the infrastructure, equipment, and other architecture associated with the NPSBN. NTIA, in consultation with FirstNet, must establish grant program requirements, including, defining eligible costs, determining scope of eligible activities, and prioritizing grants for activities that ensure coverage in rural as well as urban areas.

State Responsibilities: Following the information gathering process, FirstNet must develop a Request for Proposal (RFP) for the construction, operations, maintenance, and improvements of the NPSBN. When the RFP process is complete, FirstNet will notify the Governor of each state (or his/her designee) the details of the proposed plan for buildout of the NPSBN in the state and funding levels for the state as determined by NTIA. No later than 90 days after being notified by FirstNet, each Governor must choose whether his/her state will participate in the deployment of the NPSBN as proposed by FirstNet or conduct its own deployment of a radio access network (RAN) in the state.

Opt Out: If a state decides to opt out, the Governor must notify FirstNet, NTIA, and the FCC. The state then has 180 days to develop and complete RFPs for the construction, maintenance, and operations of the radio RAN within the state. The state must submit an alternate plan for the construction, maintenance, and operations of the RAN within the state to the FCC and the plan must demonstrate that the state will be in compliance with the minimum technical interoperability requirements, and interoperability with the NPSBN.

The FCC will review and either approve or disapprove the plan. If the FCC approves the plan, the state can apply to NTIA for a grant to construct (not operate and maintain) the RAN within the state. The state will need to apply to NTIA to lease spectrum capacity from FirstNet.

To obtain a grant and lease, the state must demonstrate it has:

- Technical capability to operate, and the funding to support, the state radio access network;
- Ability to maintain ongoing interoperability with the NPSBN;
- Ability to complete the project within the specified comparable timelines specific to the state;
- Cost effectiveness of the state plan; and
- Comparable security, coverage, and quality of service to that of the NPSBN.

If the FCC disapproves the plan, the construction, maintenance, operations, and improvements of the network within the state will proceed in accordance with the plan proposed by FirstNet. If a state chooses to build its own RAN, the state must pay any user fees associated with the state use of

elements of the NPSBN. The Act requires that the federal share of any activity using a grant may not exceed 80 percent of the eligible costs of carrying out that activity; therefore, there will be a minimum 20 percent matching requirement for both the state and local planning grants and the state construction grants.

Funding: The Act grants NTIA borrowing authority not to exceed \$2 billion to implement Subtitle B-Governance of Public Safety Spectrum. The Act grants NTIA borrowing authority not to exceed \$135 million to implement Section 6302, State and Local Implementation. In each case, NTIA borrows the initial funds from the general fund of the Treasury prior to the deposit of auction proceeds into the Public Safety Trust Fund (PSTF). Amounts deposited in the PSTF are funds from the incentive auctions to be carried out by the FCC. Funds deposited in the PSTF are available on a cascading order of priority. The PSTF may not be the first fund to receive auction proceeds.

- Repayment of amounts borrowed by NTIA: up to \$2 billion.
- Repayment of amounts borrowed by NTIA: up to \$135 million.
- Buildout of NPSBN in the amount of \$7 billion minus amount borrowed initially by NTIA (Section 6207 of the \$2 billion).
- Public safety research and development: \$100 million.
- Deficit reduction: \$20.4 billion.
- 911, E911, and NG911: \$115 million.
- Additional public safety research: \$200 million.
- Any additional deficit reduction.

For more information, look for updates on www.npstc.org or visit www.ntia.gov.

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