

**Executive Committee  
Meeting**

**October 3, 2014**

**10:00AM**

# Agenda

- I. Roll Call
- II. Chair Remarks
- III. Executive Committee Members - Call for Vote
  - 1. Department of Military Affairs—Major Sullenberger Bio EXH. A
  - 2. Division of Forestry—Fire Chiefs Ex Officio
  - 3. Additional Members
- IV. Technical Committee Deliverables
  - 1. Data Collection/Distribution Model EXH. B
  - 2. Contract Vehicle Survey EXH. C
  - 3. GIS Mapping Tool Update
- III. Project Status Update
  - 1. FirstNet RFI EXH. D
  - 2. FirstNet Public Notice EXH. E
  - 3. FirstNet Consultation—December 12, 2014
  - 4. FirstNet Presentation
- IV. Ongoing Public Safety Engagement Strategy
- V. Previous Meeting Minutes EXH. F

# Executive Committee

**Chair:** Terry Rhodes, Department of Highway Safety and Motor Vehicles

**Governor's Office:** Jason Allison, Chief Information Officer

**Homeland Security Advisor:** Donna Uzzell, Florida Department of Law Enforcement

**Florida Police Chiefs Association:** Daniel Alexander, Executive Director

**Tribal Representative:** Bobby Brown, Seminole Tribe of Florida

**Tribal Representative:** Ray Weeks, Miccosukee Tribe

**Florida Sheriffs Association:** Steve Casey, Executive Director

**Department of Management Services:** Stacy Arias, Deputy Secretary

**Department of Emergency Management:** Charles Hagan

**Florida Department of Health:** Mike McHargue

**Technical Committee Chair:** Greg Holcomb, Lake County Public Safety

**Finance Committee Chair:** Vacant

**Florida Department of Economic Opportunity:** Sherri Martin, Rural Economies

**Private Sector:** Mike Sole, Florida Power & Light

**Private Sector:** Colin Denney, Verizon Wireless

**Florida Fire Chiefs Association:** Kevin Herndon, Deputy Chief

**State-wide EMS Representative:** Greg Rubin, Miami-Dade Fire Rescue

***Ex Officio:** Dr. Joe Nelson, Florida EMS Advisor*

***Ex Officio:** John Wilgus, Florida Hospital Association*

***Ex Officio:** April Henkel, Florida Health Care Association*

***Ex Officio:** Dr. Peter Pappas, Holmes Regional Medical Center, SparrowNet*



# Exhibit A

## Major Ralph W. Sullenberger, Jr. Biography

Major Ralph W. Sullenberger Jr. currently serves as the Senior Communications Officer of the 53d Infantry Brigade Combat Team (BCT) and also is the Telecommunications Manager for the Florida Army National Guard.

Major Sullenberger enlisted in active Army in November 1991 and rose through the ranks as an enlisted signal and infantry Soldier. He later attended OCS in 2004, leading at every level from platoon leader, Emergency Communications Officer, Network Manager and Detachment Commander. His major deployments include Operation Iraqi Freedom in 2006-7 as the 3/20<sup>th</sup> Special Forces Signal Officer and Operation Inspired Gambit in Pakistan in the spring of 2008 where he served as the Squadron Signal Officer for 1-153 Cavalry.



In support of Military to Civil Authorities, Major Sullenberger has worked with the SOFL technical staff and supervised training events in support communications systems such as Regional Emergency Response Nodes University (RERNs), State of Florida Emergency Law Enforcement Radios, Key Leader Fly Away Kits, Video Teleconference, Secure Video Teleconferencing and tactical communications systems.

Major Sullenberger received a Bachelor of Science, Information Technology Degree from University of Phoenix and has completed Signal Officer Advanced Course and is currently enrolled in his Intermediate Officer course.

Military decorations include Airborne and Air Assault Badge, the Meritorious Service Medal, the Army Commendation Medal w/ Oak Leaf Cluster, the Army Achievement Medal with Oak Leaf Clusters, and 6 State of Florida Active Duty ribbons.

Major Sullenberger and his wife, Susan, have two children; their son Cooper who is 11 and a daughter of 8 years old. They currently reside in Daytona Beach, Florida.

### Contact Information:

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# Exhibit B

## **FloridaNet Data Collection Model**

## Summary

FloridaNet is the group responsible for working with the First Responder Network Authority to design the nation's first public safety broadband network. This document is intended to provide a model for collection and distribution of data from all public safety disciplines within the state of Florida.

The model for data collection and information distribution is influenced by the Statewide Communication Interoperability Plan (SCIP) Governance structure. This is done purposefully to strengthen and enhance existing governance structures throughout the state in order to improve interoperable communications.

This process is intended to provide a feedback loop in order to align project requirements and maintain transparency. Some data may be public-safety sensitive and blocked from view by all parties.

## Overview of the model

**Step 1:** The FloridaNet Executive Steering committee provides direction and guidance on the execution of the project activities as part of the State and Local Implementation Grant Program (SLIGP) as part of the overall planning effort to present a plan to the Governor of Florida for participating in the National Public Safety Broadband Network (NSPBN). The FloridaNet Executive Committee provides authorization and approval to proceed with all data collection requirements, data models, tools and activities.

**Step 2:** The FloridaNet Technical Committee, Chaired by Greg Holcomb, is responsible for executing the necessary steps to collect and disseminate data as directed by the FloridaNet Executive Steering Committee. The Technical Committee develops and recommends all data collection requirements, data models, tools and activities for approval by the FloridaNet Executive Steering Committee. The Technical Committee is comprised of multi-disciplined subject matter experts from across the state of Florida. Current representation includes public sector fire, ems, law enforcement, radio/communications operations and management, Florida National Guard, private sector and state-wide technology leadership. Each of the state's Regional Domestic Security Task Force Interoperability (RDSTF IO) Chairs is a member of this committee. The Technical Committee serves as the single point of contact for each of the RDSTF IO chairs and Technical committee membership provide guidance on data collection and information distribution requirements from the FloridaNet Executive Committee.

**Step 3:** The RDSTF IO Chair is responsible for dissemination of data collection and information distribution requirements within their region. They are encouraged to utilize their Regional Interoperable Communications Committee (RICC) to facilitate this process. The RDSTF IO Chair is the single point of contact for their region and provides guidance on data collection and information distribution requirements from the FloridaNet technical committee. Each RDSTF is responsible for ensuring participation of all public safety disciplines from each county, municipality, local government, and private sector within their region. It is strongly encouraged that the RDSFT leverage their RICC for this process activity. FloridaNet staff is available to assist the IO Chairs, as requested. IO Chairs will Work with the Technical Committee Chair to establish some guidelines on approach make a coordinated request of FloridaNet staff resources. Tribal organizations, State Government and UASI will determine the best model for information dissemination and collection based on their organization structure. Each representative serves as the single point of contact for their discipline.

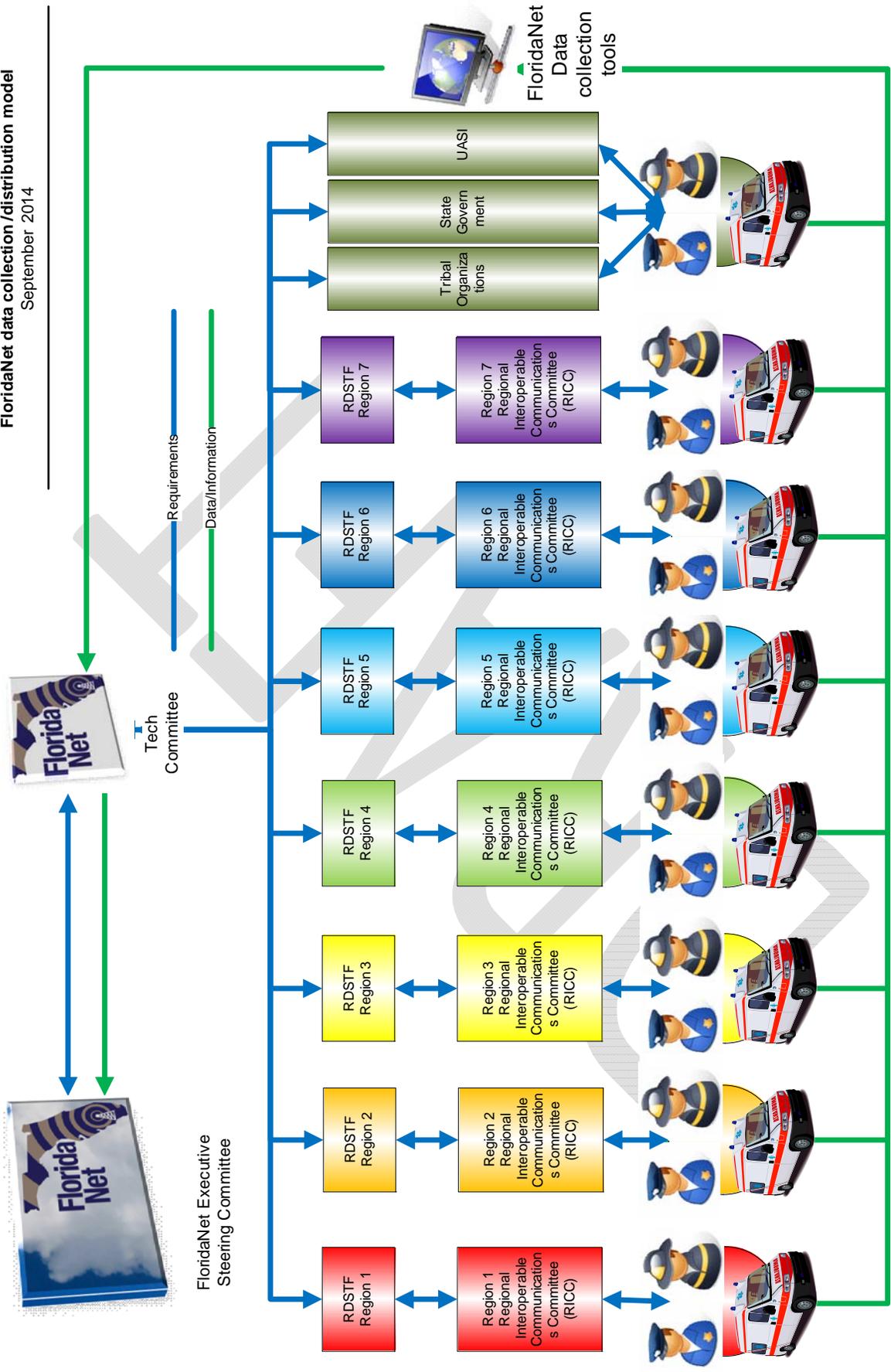
**Step 4:** First responders provide key data based on informational requirements or questions from the RDSTF IO Chair, local RICC, Tribal Representative, State Government liaison, or UASI contact . All disciplines are encouraged to participate and will be provided access to any data collection tool utilized in the process. The RICC or representative body identified from each organization should be the single point of contact for questions about the data collection process

**Step 5:** FloridaNet data collection will be conducted utilizing tools available through the cloud. Training on the usage of these tools will be provided by the FloridaNet team. Data and information collected will be provided back to the Technical Committee for presentation to the FloridaNet Executive Steering Committee for action or decision.

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# FloridaNet data collection model 2014

FloridaNet data collection /distribution model  
September 2014





# Exhibit C

## **Contract Vehicle Survey**

Thank you for participating in the data collection efforts to design the nations first public safety broadband network. The information collected will be provided to the FloridaNet team for use in the consultation process with FirstNet.

**\*1. Select your organization type:**

- Federal
- State
- Local
- County
- Tribal
- Private Corporation
- Public Utilities
- Public Health Care
- Other (please specify)

**\*2. Please select the discipline that best describes your agency or division:**

- |  |   |  |
|--|---|--|
| <input type="radio"/> Courts, Corrections and Security | <input type="radio"/> Hospitals and Medical Facilities                            | <input type="radio"/> Public Safety Communications   |
| <input type="radio"/> Emergency Management             | <input type="radio"/> Law Enforcement (Municipal, State, Sheriff, Highway Patrol) | <input type="radio"/> Public Utilities (Electricity, Gas, Water, Telecom and Sewer)  |
| <input type="radio"/> Emergency Medical Services       | <input type="radio"/> Military  | <input type="radio"/> Specialized Law Enforcement (Investigations, Intelligence, Dignitary Protection, Specific Jurisdiction or Mission) |
| <input type="radio"/> Facilities and Land Management   | <input type="radio"/> National Security/Intelligence                              | <input type="radio"/> Transportation Services  |
| <input type="radio"/> Fire Service                     | <input type="radio"/> Public Administration and Support Services                  |  |
| <input type="radio"/> Highway and DOT                  | <input type="radio"/> Public Health   |  |
| <input type="radio"/> Other (please specify)           |   |  |

## Demographics

### \*3. Please provide some details about yourself and your organization:

Name:	<input type="text"/>
Agency/Organization:	<input type="text"/>
Address:	<input type="text"/>
Address 2:	<input type="text"/>
City/Town:	<input type="text"/>
State:	<input type="text"/>
ZIP:	<input type="text"/>
Position/Title:	<input type="text"/>
Email Address:	<input type="text"/>
Phone Number:	<input type="text"/>

### \*4. How many of the following types of employees are in your agency? (For the purposes of tracking agency staff, contractors should be considered employees):

	0-50	51-200	201-500	501-1000	Greater than 1000
Full Time	<input type="radio"/>				
Part Time	<input type="radio"/>				
Volunteers	<input type="radio"/>				

### \*5. Please provide information on your vehicles used in your agency/organization:

	0	1-50	51-200	201-500	501-1000	Greater than 1000
Fleet Vehicles that utilize data	<input type="radio"/>					
Fleet Vehicles that don't utilize data	<input type="radio"/>					
Personal Vehicles that utilize data	<input type="radio"/>					
Personal Vehicles that don't utilize data	<input type="radio"/>					

### 6. Does your agency/organization utilize any type of data monitoring/data management product?

- Yes
- No
- Not Known

## Carrier information

FloridaNet is collecting this data to determine what contract vehicle you utilized to obtain your current wireless broadband data service. Carrier = mobile data carrier

### **\*7. What procurement process was utilized by your agency to select your carrier (select all that apply)?**

- Master contract - GSA/Federal
- Master contract - State
- Master contract - Other entity
- Local RFP/Bid
- Based on price quotes
- Not governed by a formal procurement process
- Carrier selected by other agency/organization
- Unknown
- Other (please specify)

### **8. How many mobile data carriers are required to fulfill your public safety mission?**

- 1
- 2
- 3
- 4 or more
- Not known

## Multiple Carrier information

### 9. Why do you require multiple carriers? (check all that apply)

- Coverage
- Capacity
- Features
- Roaming
- Redundancy
- Reliability

Other (please specify)

## Carrier information continued

**\*10. Please check each of the commercial carriers you use (check all that apply):**

AT&T

Metro PCS

Sprint

T-Mobile

TracFone

US Cellular

Verizon

Other (please specify)

**11. Do you utilize a private data network?**

- Yes
- No

## Private Data Network

### 12. You indicated that you utilize a private data network. Do you own or lease the network?

- Owned
- Leased
- Vendor (please specify)

## Mobile devices

### 13. What types of mobile device appliances do you utilize and what is your monthly bill for each?

	Less than \$40	\$41 - \$50	\$51 - \$65	Greater than \$65	N/A
Air card or computer/tablet with integrated wireless modem	<input type="radio"/>				
Smart Phone	<input type="radio"/>				
Cell phone (voice only, no data)	<input type="radio"/>				
USB/Sidecar Modem	<input type="radio"/>				
Automatic Vehicle Location/ Global Positioning System (AVL/GPS)	<input type="radio"/>				
Vehicular Modem	<input type="radio"/>				
Integrated Router	<input type="radio"/>				

Other (please specify)

### 14. What type of data plan do you have for these devices?

	Unlimited data	Bundled	Not known
Air card or computer/tablet with integrated wireless modem	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Smart Phone	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Cell phone (voice only, no data)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
USB/Sidecar Modem	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Automatic Vehicle Location/ Global Positioning System (AVL/GPS)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Vehicular Modem	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Integrated Router	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other (please specify)

## Carrier information part 2

**\*15. Approximately how many devices does each employee have in your organization (devices include laptops with air-cards, tablets, and smart phones)? Please include any personal devices used for work purposes.**

- Less than 1 (a small amount of employees share devices)
- 1
- 2
- 3 or more
- Unknown

## Features

### 16. What are the most important factors you consider when selecting a mobile data carrier?

	Not at all important	Slightly important	Moderately important	Very important	Extremely important
Cost	<input type="radio"/>				
Coverage	<input type="radio"/>				
Capacity	<input type="radio"/>				
Customer Service	<input type="radio"/>				
Manageability	<input type="radio"/>				
Security	<input type="radio"/>				
User provisioning	<input type="radio"/>				
Emergency Response	<input type="radio"/>				

### 17. What mission critical activities rely on your mobile data network? (check all that apply)

- Text messaging, paging, one way notifications
- Automatic Vehicle Location/ Global Positioning System (AVL/GPS)
- Database inquiries (FCIC/NCIC, criminal history, hot files)
- Records Management Systems (local queries)
- Computer Aided Dispatch (CAD) interface
- Field based reporting
- Small File transfers (up to 1MB)
- Large File transfers (over 1MB)
- GIS/Situational awareness
- Internet browser access
- Intranet access/VPN to home network
- Tactical "chat" rooms
- Transmission of low quality video
- Transmission of high quality video
- Telemetry (continuous process status monitoring)
- Web based training
- Video conferencing
- Mobile device management/updating
- Land Mobile Radio (LMR) integration

Other (please specify)

## Thank you

Thank you for participating in the FloridaNet contract vehicle survey.

### **18. What is the level of awareness within your agency of the FloridaNet program?**

- Not familiar at all with the mission, goals and operations
- Some awareness of the mission, goals and operations
- Above average knowledge of the mission, goals and operations
- Extensive knowledge of the mission, goals and operations



# Exhibit D

## **FirstNet Request for Information (RFI)**



**Request for Information**

**for**

**Comprehensive Network Solution(s)**

**September 17, 2014**

### **A. PURPOSE**

This request for information (“RFI”),<sup>1</sup> which incorporates a draft statement of objectives (“SOO”), seeks input from interested parties regarding approaches to and objectives for establishing a nationwide interoperable public safety broadband network. Responses to this RFI will be used by the First Responder Network Authority (“FirstNet”) to better understand industry’s capabilities, evaluate best procurement approach(es), and determine how to best leverage existing capabilities and best practices to meet public safety needs.

### **B. BACKGROUND**

In February 2012, Congress enacted the Middle Class Tax Relief and Job Creation Act of 2012 (the “Act”), containing landmark provisions to create an interoperable, nationwide public safety broadband network (“NPSBN”) for law enforcement, firefighters, emergency medical service professionals and other public safety entities. The Act outlined a governing framework for the deployment and operation of this network based on single, nationwide network architecture and the creation of the FirstNet, an independent authority within the National Telecommunications and Information Administration (“NTIA”). FirstNet holds the single public safety wireless spectrum license for the NPSBN, and is charged with taking all actions necessary to ensure the building, deployment, and operation of the network in consultation with federal, state, tribal and local public safety entities, the Director of the National Institute of Standards and Technology (“NIST”), the Federal Communications Commission (“FCC”), and a public safety advisory committee established under the Act.

### **C. PREVIOUS RFIs, VENDOR ENGAGEMENT AND MARKET RESEARCH**

This RFI is the latest request in a series of RFIs, and incorporates feedback received from prior solicitations, including:

- a May 2013 RFI on devices;
- July 2013 RFIs on network partners, radio access network, the core network, and other items; and
- a November 2013 RFI on applications platforms.

Vendor engagements with a variety of interested parties have also been utilized to conduct market research. FirstNet has engaged in an extensive effort to gather information through its significant ongoing outreach and consultation process, which has included a series of regional workshops, state single point of contact (“SPOC”)<sup>2</sup> calls, onsite public safety interactions, public safety advisory committee (“PSAC”)<sup>3</sup> meetings, and coincident with this RFI, a notice and

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<sup>1</sup> Unless otherwise defined in the text, capitalized terms have the meaning provided in **Appendix A**.

<sup>2</sup> 47 U.S.C. 1426(c)(2)(B).

<sup>3</sup> 47 U.S.C. 1425(a)(1).

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comment process. From these previous RFIs, vendor engagements, ongoing outreach, and consultations FirstNet has and will continue to obtain critical information on market needs and vendor capabilities to better define its acquisition goals, strategy and objectives.

#### **B. ACQUISITION APPROACH**

Building on the above activities, FirstNet's acquisition strategy centers on maximizing the network's value to public safety while meeting its financial sustainability obligations under the Act. FirstNet currently seeks to implement a performance-based acquisition strategy that will allow it to obtain comprehensive network solution(s) that will ensure the building, deployment and financially self-sustaining operation of the NPSBN. In the spirit of this performance-based approach, FirstNet does not seek to dictate the specific solution provided by potential offerors or the manner in which parties may or may not seek to align themselves through partnerships, joint ventures, or other alliances in order to produce an offer in response to our solicitation. Rather, FirstNet has outlined program objectives that encourage innovative solutions to meet and exceed public safety's needs and FirstNet's statutory obligations. In this regard, FirstNet encourages marketplace collaboration to ensure the best solution for public safety entities in all states, territories, and tribal lands.

FirstNet's current approach is based upon the premise that FirstNet will seek proposals for a network solution or solutions allowing it to control and operate a nationwide Core network, Radio Access Networks in Opt-in States, as well as for devices, deployable capabilities, applications, integration, and maintenance and operational services required to fully function as an operational wireless standards-based LTE network nationwide. In addition, FirstNet seeks solutions that would include in-kind or monetary value provided by offerors in consideration for secondary use of FirstNet's excess network capacity pursuant to Covered Leasing Agreements. FirstNet also seeks in-kind or monetary value for innovative business solutions enabled by the NPSBN. This acquisition may consider the services provided to public safety, the value provided for excess network capacity, time to market, and rural coverage, among other evaluation criteria.

#### **D. INFORMATION REQUESTED**

Our draft SOO is attached as **Appendix B**. The SOO includes, among other things, draft program objectives that will form a critical component of the RFP. Through these objectives, FirstNet seeks to provide a performance-based framework through which interested parties may offer detailed proposals in response to the RFP. To do this, FirstNet requests industry comments on the following:

- all aspects of the draft SOO, including proposed changes to the draft program objectives and recommendations for any new ones; and
- answers to questions, provided in Section E below, which are related to the acquisition approach and several of the SOO program objectives.

## **E. QUESTIONS RELATED TO THE ACQUISITION APPROACH AND CERTAIN PROGRAM OBJECTIVES**

### **ACQUISITION APPROACH**

FirstNet is weighing the speed of deployment, services, functionality, cost, and implementation and operational risks and benefits of seeking proposals for a nationwide comprehensive solution versus more disaggregated network solutions. Factors we are considering include:

- a. the economies of scale and scope, including the synergy value and speed of deployment associated with leveraging existing commercial mobile provider infrastructure;
- b. the value of leasing excess network capacity on a national scale or on a market or state-by-state basis, and combining such leasing with the contract for building-out and operating the network;
- c. the trade-offs between spectrum availability for public safety use and the value created (ultimately for public safety's benefit) through leasing excess network capacity to third parties;
- d. the advantages and disadvantages, including with regard to execution risk and redundancy, of having a single party or several parties responsible for implementation and operation of the network (nationwide or by market);
- e. the technical, operational, cost, and speed of deployment considerations related to integrating disparate RANs with multiple vendor technologies and varying standards compliance;
- f. the technical, operational, cost, and temporal considerations related to contracting for, gaining access to, and using potentially thousands of public and private sites and other infrastructure with different owners, lessors, requirements, and equipment;
- g. providing certainty to offerors in the procurement process in order to get the best price in light of the right of States to subsequently opt out of FirstNet RAN construction and operation;
- h. the limits imposed by FirstNet Resources and Federal government hiring process, contracting, and operating rules and regulations;
- i. the duration of FirstNet's spectrum license and legislated program lifespan pending Commission and Congressional action;
- j. compliance with complex provisions of the Act; and
- k. the effect of all of the above factors, among others, on the value FirstNet can bring to public safety entities.

FirstNet seeks comment on the appropriate balancing of the above and other factors related to our acquisition approach, including the following questions and those

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further below regarding specific program objectives. In answering questions 1-4, below, please discuss how your company and/or your suggested solution would address each of the factors in 1.a-k above.

1. Should FirstNet (a) seek proposals for a comprehensive, nationwide solution, (b) act as integrator and seek proposals for equipment and services to custom assemble a nationwide network, or (c) something there-between? Please provide detailed responses with the pros and cons of each.
2. At what stage(s) in the acquisition and deployment process should FirstNet consider the economic desirability of leveraging each type of existing infrastructure as required by the Act? What will be the effect on deployment speed, implementation risk, and cost of your recommended approach?

#### **BUILD, DEPLOY, OPERATE AND MAINTAIN THE NPSBN (*refer to Program Objective 1*)**

3. Describe the feasibility of providing nationwide coverage (on a geographic basis) in all States and territories to meet public safety coverage needs in light of limited FirstNet Resources. Discuss the cost-benefit tradeoffs of providing the types of such coverage (e.g., in-building, outdoor, satellite-based, local self-organized) across all topologies (e.g., urban, suburban, rural, wilderness), including in terms of network functionality and capacity, cost implications of implementation, population coverage, and high-incident or high-risk geography coverage. Please include any technical or architectural information required to answer this question, including any regulatory hurdles that may impact this objective and recommendations thereon.
4. Should FirstNet combine across all geographies the procurement of the Core, RAN, and the leasing of excess spectrum capacity? If not, what are the implications of your alternative combinations in terms of implementation costs, deployment timing, economies of scale and scope, and other risk factors? How should the possibility of Opt-out States be handled in your proposed process?

#### **FINANCIAL SUSTAINABILITY (*refer to Program Objective 2*)**

5. Based on the tradeoffs discussed in response to question 4, how can FirstNet minimize costs and expenditures to build, deploy, operate, and maintain (including recapitalization) the NPSBN? Describe any innovative business solutions and revenue sharing structures you believe FirstNet should consider in order to maximize the utilization and monetization of FirstNet assets. Please describe the risks associated with your business solution suggestions as well as implementation timelines.

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6. How should FirstNet maximize the value of Covered Leasing Agreements, including the optimal unit of transaction for excess network capacity, in terms of geography, time, and bandwidth? For example, in terms of geography, network capacity could entail nationwide geographic units, a grouping based on a pre-existing FCC definition (e.g. regional economic area groupings, economic areas, or partial economic areas), States, or a categorization created by FirstNet. In terms of time, network capacity could entail units that range from minutes to years. Lastly, in terms of bandwidth, measurements could include LTE resource blocks, gigabits, megahertz or another unit.
7. What sustainability and transition strategies should FirstNet pursue to enable NPSBN service to continue beyond the 15 year initial term provided in the Act (assuming Congressional support)?

#### **COMPELLING AND COMPETITIVE PRICING PACKAGES (*refer to Program Objective 3*)**

8. Describe the optimal prices and features to drive adoption. What, if any, traffic usage-tiered pricing should be considered to ensure sustainability? Describe any innovative solutions that will assist in keeping costs low to enable compelling pricing.
9. If not answered with respect to another question, what measures should be taken by FirstNet to ensure that the cost basis of the network does not require unreasonably high user and Core fees? What, if any, operational policies should be put in place to make the network sustainable over the long term?

#### **ACCELERATE SPEED TO MARKET (*refer to Program Objective 6*)**

10. Describe recommended technical and deployment milestones (e.g., IOC 1, IOC 2, IOC 3, FOC) to achieve operational capabilities, including provision of initial broadband capabilities, Band 14 capabilities, devices, applications and app environments, and significant public safety subscribership, of the NPSBN.
11. Describe the rural milestones that should be included to fulfill FirstNet's statutory obligation to include substantial rural coverage milestones as part of each construction and deployment phase. Include a milestone chart starting from the anticipated award date reflecting your responses to the above.

#### **SYSTEM HARDENING (*refer to Program Objective 7*)**

12. Describe how FirstNet should address unique environmental hardening objectives of regions across the country and the tradeoffs between hardening and costs.

13. How should FirstNet balance disparate hardening and resiliency solutions during proposal evaluations to obtain the best value solution for public safety entities?
14. How should FirstNet address special considerations for areas or regions with unique homeland security or national security needs? How should these costs be weighed against other cost factors?

**PRIORITY AND PREEMPTION: (*refer to Program Objective 8*)**

15. Describe your innovative approaches and ideas that will allow priority and preemption for all NPSBN users, including under local control. Describe any operational policies that will help this succeed in implementation. Describe how such approaches will be implemented in opt-out States and when leveraging existing infrastructure. How should FirstNet measure prioritization and network preemption during times of emergency? Describe how tribal, local, State, and Federal public safety agencies would best implement priority in the context of multi-level public safety responses.

**OPT-OUT RAN INTEGRATION (*refer to Program Objective 9*)**

16. What technical and other integration issues should be addressed at all IOC milestones between State Opt-out RANs and the NPSBN (e.g., initial construction, testing, software upgrades, ongoing testing)?
17. What technical and other integration issues and costs would have to be addressed when an Opt-out state requests to enter into a Covered Leasing Agreement with a third party, where the effectiveness of such Covered Leasing Agreement depends on material modifications to the Core functionality of the NPSBN?

**INTEGRATION OF RANs AND INFRASTRUCTURE ON A COST-REIMBURSEMENT BASIS (*refer to Program Objective 10*)**

18. Describe specifically how and when your approach would facilitate FirstNet's determination of whether it is economically desirable to:
  - a. leverage existing commercial wireless infrastructure to speed deployment of the network;
  - b. include partnerships with existing commercial mobile providers to utilize cost-effective opportunities to speed deployment in rural areas; and
  - c. enter into agreements to utilize existing commercial or other communications, Federal, state, tribal, or local infrastructure.
19. Assuming FirstNet determines it is economically desirable, describe how your approach would leverage and accommodate FirstNet's entrance into agreements,

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and otherwise integrate into the NPSBN the above infrastructure and providers. Please describe any requirements, costs, or other limitations that would be imposed if FirstNet requests such efforts. What technical standards, specifications, and restrictions would be required to ensure seamless integration with such infrastructure and providers? For example, would standardized traffic aggregation points be needed? Under what circumstances would the costs of such arrangements outweigh the benefits, and what types of agreements would be needed?

#### **SYSTEM RELIABILITY AND RESTORATION (*refer to Program Objective 11*)**

20. Describe technical approaches FirstNet should consider to meet program reliability and restoration objectives, including disaster zone areas covered in the objective.
21. Provide feedback on the stated metrics and any additional service metrics FirstNet should consider.

#### **LIFECYCLE INNOVATION (*refer to Program Objective 12*)**

22. How should FirstNet evaluate proposals to ensure the network incorporates ongoing technology enhancements? What network policies should FirstNet establish with regard to how specifically Opt-out states will keep pace with such enhancements of the NPSBN to ensure interoperability? How should this be enforced to ensure nationwide interoperability?

#### **CUSTOMER CARE AND MARKETING (*refer to Program Objective 14*)**

23. Describe solutions that would optimize go-to-market, and sales/distribution activities, including pre-sales, sales, and post-sales activities for FirstNet-branded products and services. Describe mitigation strategies FirstNet should consider to address conflicts within your internal and/or external operations channels if applicable.
24. Describe strategies FirstNet should consider for transitioning existing public safety customers onto your NPSBN solution if applicable.
25. Describe the levels and specific methods of control FirstNet should consider in creating, marketing, pricing, and deploying products and services. What levels of adoption and barriers to such adoption do you expect and why?

#### **FACILITATE FIRSTNET'S COMPLIANCE WITH THE ACT AND OTHER LAWS (*refer to Program Objective 15*)**

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26. How should the awardee of the final RFP facilitate FirstNet's overall program compliance with FirstNet's requirements in the Act, such as its self-funding, annual fee approval, consultation, and State plan presentation requirements?
27. How should the awardee of the final RFP facilitate FirstNet's overall program compliance with FirstNet's requirements under other laws, such as with respect to NEPA and NHPA requirements?

#### ADDITIONAL INFORMATION

28. Provide feedback on all aspects of the draft SOO, including proposed changes to existing program objectives and recommendations for any new objectives.
29. For each of FirstNet's stated program objectives, provide specific feedback and ideas concerning the evaluation criteria that FirstNet should utilize to assess offers and form a basis for selection.
30. Provide any additional information that FirstNet should consider related to your response.

#### **F. GUIDANCE FOR RESPONDING TO THE RFI**

In accordance with FAR 15.201(e), responses to this RFI are not offers and cannot be accepted by the Government for the basis of forming a binding contract. This RFI is being issued solely for the purpose of gathering information for planning purposes. It does not constitute an RFP or a promise to issue an RFP in the future. This RFI does not commit the Government to a contract for any supply or service whatsoever. Furthermore, the Government is not at this time seeking proposals and will not accept unsolicited proposals. Respondents are advised that the Government will not reimburse interested parties or any other organizations for any information or administrative costs incurred in response to this RFI. All costs associated with responding to this RFI will be solely at the interested parties' expense. Any information submitted to the government in response to the RFI will not be returned to the respondent. A formal pre-solicitation synopsis will be published should FirstNet decide to issue an RFP.

Interested parties (specifically small businesses) are encouraged to respond to this RFI. If the scope of this RFI is too large or there are aspects to which your company does not wish to provide a response, please feel free to provide partial/limited feedback in the areas of your specific expertise. FirstNet hopes to receive information from all interested parties on any aspects of this RFI that could be of benefit to the Government.

When responding to this RFI, clearly label all proprietary information and any other limitations on disclosure. Please refer to specific RFI questions or specific SOO items by number in all responses. Please limit your specific narrative response to 75 pages inclusive of attachments,

## FirstNet Comprehensive Network Solution

### *Request for Information*

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Times New Roman or Calibri 12-point font, single-spaced, single-sided pages with 1 inch margins.

The group reviewing the responses may seek further clarification from respondents. This clarification may be requested in the form of brief verbal communication by telephone, written communication, or electronic communication. In addition, RFI respondents may be invited to present their responses to the reviewing group. The purpose of this presentation would be to seek clarification of information contained within the response.

It is not the intent of FirstNet to publicly disclose vendor proprietary information obtained during this market research effort. To the fullest extent consistent with FirstNet's legal obligations, information identified by a respondent as "Proprietary or Confidential" will be kept confidential.<sup>4</sup> Information submitted by interested parties in response to this RFI, including information marked as limited rights data, as restricted computer software, as being subject to limited rights, and/or as being subject to restricted rights, will be shared by the Government with current and future support contractors hired to assist FirstNet. FirstNet's support contractors that have been, or that will be hired, are required to sign non-disclosure agreements restricting them from unauthorized use and disclosure of information that may be proprietary to third party companies. By submitting information in response to this RFI, vendors are agreeing to voluntarily allow the Government to share the information they submit with FirstNet's support contractors who are, or will be, covered by a non-disclosure agreement.

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<sup>4</sup> Note that FirstNet is not subject to the requirements of the Freedom of Information Act.

## APPENDIX A

When responding to this RFI, please refer to the glossary of terms below to ensure consistent use of relevant terms. The terms marked with an asterisk (“\*”) are contained in the Act and are the subject of FirstNet’s preliminary legal interpretations in a public notice at [pending publication in the Federal Register, available on FirstNet’s website at [www.firstnet.gov](http://www.firstnet.gov)] (the “Notice”) that is a companion to this RFI. For purposes of responding to this RFI, respondents are strongly encouraged to review the Notice for a detailed discussion of these interpretations and to participate in both processes. We note that the Notice is designed to elicit comments that could result in FirstNet modifying, potentially substantially, these interpretations. We intend to incorporate any such changes in a draft or the ultimate RFP.

**Core\*** – as defined in the Act and discussed in the Notice.

**Covered Leasing Agreements\*** – as defined in the Act and discussed in the Notice.

**FirstNet Resources** – means funds available to FirstNet under the Act and user and other fee revenues under the Act, including lease fees (cash or in-kind) related to Covered Leasing Agreements.

**Opt-in State** – means a State that does not elect to conduct its own deployment of a RAN in such State in accordance with 47 U.S.C. 1442(e)(2)(A).

**Opt-out State** – means a State that elects to conduct its own deployment of a RAN in such State in accordance with 47 U.S.C. 1442(e)(2)(B).

**Prime Contractor**- Is a person or organization entering into a contract directly with the United States. (FAR 3.502-1) This term is synonymous with Contractor.

**Public Safety Entity\*** – as defined in the Act and discussed in the Notice.

**Radio Access Network or RAN\*** – as defined in the Act and discussed in the Notice.

**State** – as defined in the Act.

**Interoperability Board Report** – as issued by the FCC.<sup>5</sup>

**Technical Requirements** – means, at a minimum, those requirements provided in section 1.3 of the Interoperability Board Report and those network policies established by FirstNet under 47 U.S.C. 1426(c)(1).

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<sup>5</sup> Section 6203 of the Act established the Technical Advisory Board for First Responder Interoperability (“Interoperability Board”) and directed it to develop minimum technical requirements to ensure the interoperability of the NPSBN. 47 U.S.C. 1423. On May 22, 2012, the Interoperability Board, in accordance with the Act, submitted its recommendations to the Commission in a report. See Technical Advisory Board, *Recommended Minimum Technical Requirements to Ensure Nationwide Interoperability for the Nationwide Public Safety Broadband Network* (“Interoperability Board Report”) (May 22, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021919873>. On June, 21, 2012, the Commission completed its review of the Interoperability Board’s final report and approved it for transmittal to FirstNet. See FCC Order of Transmittal, Recommendations of the Technical Advisory Board for First Responder Interoperability, PS Dkt. No. 12-74, FCC 12-68 (rel. June 21, 2012), available at [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-12-68A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-12-68A1.pdf).

## APPENDIX B – DRAFT STATEMENT OF OBJECTIVES (SOO)

### I. Purpose & Background

#### A. Introduction

In February 2012, Congress enacted the Middle Class Tax Relief and Job Creation Act of 2012 (the “Act”), containing landmark provisions to create an interoperable, nationwide public safety broadband network (“NPSBN”) for law enforcement, firefighters, emergency medical service professionals and other public safety entities. The Act outlined a governing framework for the deployment and operation of this network based on single, nationwide network architecture and the creation of the First Responder Network Authority (“FirstNet”), an independent authority within the National Telecommunications and Information Administration (“NTIA”).

#### B. Statement of Need

FirstNet is seeking comprehensive network solutions covering all states, territories, and tribal nations. These comprehensive network solutions include: the provisioning of (or integration with) a national Core; all radio access network (RAN) components; backhaul, aggregation and national transport networks and datacenters; devices; network infrastructure; deployable capabilities; operational and business support systems; applications and network services; and integration, maintenance, and operational services required to fully function as an operational wireless Third Generation Partnership Program (3GPP) Long Term Evolution (LTE) NPSBN. FirstNet’s objective is to maximize the network’s value to public safety while meeting its financial sustainability obligations under the Act. This solution would potentially include (1) "in kind" and/or monetary value provided by offerors in consideration for secondary use of FirstNet's excess network capacity, and (2) various partnerships business arrangements that monetize new public safety market offerings via applications and other value added benefits and services that enhance the customer user experience.

This acquisition considers the value provided for excess network capacity, time to market, public safety program objectives, and rural coverage, among many other factors. FirstNet does not seek to dictate the deployment strategy of potential offerors or the manner in which parties may or may not seek to align themselves through partnerships, joint ventures or other vehicles to produce an offer in response to this solicitation. Rather, FirstNet seeks to outline broad objectives that must be accomplished by offerors and encourage innovative solutions that will meet and exceed both the program and public safety’s needs.

FirstNet must create the wireless NPSBN within the financial parameters outlined in the Act and ensure its financial sustainability through federal funding, user fees, and agreements with partners that will leverage the value of excess network capacity. In addition, FirstNet must

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provide services at competitive prices, given constrained state, local and federal budgets. In undertaking this task, FirstNet must leverage to the extent economically desirable existing infrastructure, obtain optimal value for excess network capacity and optimize its pricing structure so that FirstNet can deliver a high-quality, affordable broadband network to the nation's public safety communities.

FirstNet will bring to the public safety community a dedicated and interoperable NPSBN with quality of service, priority usage, and preemption. In addition, the network will be "hardened" as needed from the physical perspective, and will be resilient, secure and highly reliable from the network perspective. Furthermore, the network will provide both national and local control over prioritization, preemption, provisioning, device features and reporting to public safety agencies.

The NPSBN and associated devices will be branded as "FirstNet." While FirstNet has a congressional mandate to address customer care functions, and FirstNet will oversee the strategy of these functions, it is expected that these functions will be implemented by a winning Prime Contractor(s)<sup>6</sup> who will be responsible for executing the marketing, product management, sales, distribution, and customer care functions under a service level agreement. FirstNet will oversee outreach, communications, strategic partnering and network architecture evolution while these functions may be executed by a Prime.

## **II. Scope of Work**

Public safety requires a national interoperable broadband network covering urban, suburban, rural, and wilderness service territories and designed to meet the information and communications technology needs associated with their missions. Through this acquisition, FirstNet seeks to obtain comprehensive solutions encompassing the necessary elements (including a national core network; radio access networks; backhaul, aggregation and national transport networks and data centers; devices; network infrastructure; deployable capabilities; operational and business support systems; customer care including marketing, product management, sales, distribution; network architecture evolution; applications and network services; and integration, maintenance, and operational services) to meet this critical need. This acquisition includes the business (distribution of services and devices), technical, financial, operational, logistical, and program management components for this solution. The acquisition expects continual upgrade and innovation of the system throughout the lifecycle of the contract as LTE and beyond (5G, 6G) standards evolve, public safety needs expand and new capabilities and technologies become commercially acceptable and available.

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<sup>6</sup> A Prime Contractor a person or organization entering into a contract directly with the United States. (FAR 3.502-1) This term is synonymous with CONTRACTOR.

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The NPSBN, and therefore the offeror's operational management of the NPSBN, will support the operational needs of public safety ranging from routine law enforcement, fire, rescue, emergency response and similar operations through major natural and manmade disasters, and homeland security/homeland defense missions.

### **III. Program Objectives**

1. **BUILD, DEPLOY, OPERATE AND MAINTAIN THE NPSBN:** Provide a nationwide interoperable public safety broadband network that ensures network coverage 24/7, 365 days a year and complies with the Technical Requirements.
2. **FINANCIAL SUSTAINABILITY:** Perform all program objectives while minimizing risk and use of FirstNet Resources to build, deploy, operate, and maintain the NPSBN.
3. **COMPELLING AND COMPETITIVE PRICING PACKAGES:** Establish pricing structures to support services packages that include data, voice, messaging, streaming, and location services, and that promote optimum public safety subscribership while maintaining financial sustainability.
4. **END USER DEVICES:** Provide 3GPP-compliant Band 14 devices that operate seamlessly on the NPSBN, roam onto partner networks (including non-band 14 networks), and interoperate with FirstNet's application ecosystem.
5. **APPLICATION ECOSYSTEM:** Establish an application ecosystem that provides public safety-relevant capabilities and services.
6. **ACCELERATE SPEED TO MARKET:** Achieve operational capabilities that include the provision of initial broadband capabilities, Band 14 capabilities, significant subscribership to the NPSBN, and substantial rural coverage milestones as part of each construction and deployment phase (including initial operational capabilities (IOCs) and final operational capability (FOC)).
7. **SYSTEM HARDENING:** Provide a public safety broadband network infrastructure hardened to withstand environmental, cyber and other threats. The NPSBN must comply with Federal Certified Intrusion and Protection System standards, Federal Information Processing Standard 140-2, and other federal hardening and cyber security standards.
8. **PRIORITY AND PREEMPTION:** Provide a solution that allows priority and preemption for all NPSBN users under tiered, national, regional, and local control.

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9. INTEGRATION OF OPT-OUT STATE RANs: Integrate with the NPSBN Opt-out state RANs that meet the Technical Requirements so that users operate without service interruptions, including when crossing Opt-out/Opt-in RAN service area boundaries.
10. INTEGRATION OF RANs AND INFRASTRUCTURE ON A COST-REIMBURSEMENT BASIS: Facilitate FirstNet's determination of the economic desirability of using or otherwise leveraging commercial, FirstNet, or other public RANs and commercial, FirstNet, or other public infrastructure. When requested by FirstNet and to the extent they meet the Technical Requirements, use or otherwise leverage such RANs and infrastructure with the NPSBN on a cost-reimbursement basis.
11. SYSTEM RELIABILITY AND RESTORATION: Maintain NPSBN reliability of at least 99.99%, including providing user access with a session setup time <1s, success rate >=99%, abnormal session releases <1%, throughput >256kbps > 95% of time, and latency <60ms > 95% of time. End-to-end availability, from device-to-applications and device-to-public safety enterprise networks, should exceed 99%. Operate during natural and man-made disasters with restoration of services to the NPSBN as quickly as possible. Provide special consideration to all disaster prone areas designated by the United States Department of Agriculture, Federal Emergency Management Agency, and the National Electric Reliability Council on the No Discharge Zone maps and terrorist target zones on the United States National Security Agency databases.
12. LIFECYCLE INNOVATION: Evolve the NPSBN solution, including products, services and the incorporation of 3GPP Long Term Evolution (LTE) standards as they are released throughout the life of the contract, in accordance with the TAB Report and the Act.
13. PROGRAM AND BUSINESS MANAGEMENT: Provide program management for the NPSBN solution in accordance with the Project Management Institute (PMI) standards and the Government Accountability Office (GAO) Cost Guidelines. Provide operational and other reporting information to FirstNet sufficient for FirstNet to ensure its compliance with the Act.
14. CUSTOMER CARE AND MARKETING: Market NPSBN products and services to all states, territories, tribal lands and users throughout each FirstNet service area. Provide responsive and timely customer acquisition, service and customer care, including a pipeline of new devices and an ecosystem that meets the needs of FirstNet and FirstNet users. Provide life cycle service and support to all users.
15. FACILITATE FIRSTNET'S COMPLIANCE WITH THE ACT AND OTHER LAWS: Perform all objectives in a manner, and provide information and services, to facilitate FirstNet's

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compliance with its statutory requirements under the Act and other laws applicable to FirstNet.

#### **IV. Constraints, Limitations and Assumptions**

1. The NPSBN solution must comply with Federal Acquisition Regulations (FAR), the Act and any other applicable laws, rules and regulations, including Federal, state, and local environmental and historic preservation laws, rules, and regulations.
2. The NPSBN solution should anticipate construction of the NPSBN on tribal lands and engagement with tribal nations.

#### **V. Place and Period of Performance**

**Base Period:** Award is through 2022, with options for extension.



# Exhibit E

## **FirstNet Public Notice**

stocks of threatened or endangered marine mammals: The CA/OR/WA stock of humpback whales (*Megaptera novaeangliae*) and the CA/OR/WA stock of sperm whales (*Physeter macrocephalus*); and to vessels registered in WA/OR/CA sablefish pot fishery to incidentally take individuals from the CA/OR/WA stock of humpback whales.

The data for considering these authorizations were reviewed coincident with the 2014 MMPA List of Fisheries (LOF; 79 FR 14418, March 14, 2014), final 2013 U.S. Pacific Marine Mammal Stock Assessment (SAR; Carretta *et al.* 2014), Carretta and Moore (2014), Moore and Barlow (in press), the Fishery Management Plan (FMP) for U.S. West Coast Fisheries for Highly Migratory Species (HMS), recovery plans for these species (available on the Internet at: <http://www.nmfs.noaa.gov/pr/recovery/plans.htm#mammals>), the best scientific information and available data, and other relevant sources.

Section 101(a)(5)(E)(i) of the MMPA requires NMFS to provide notice and opportunity for public comment on the proposed permit.

NMFS wants to provide adequate opportunity for review of all documents considered in making a negligible impact determination. Although NMFS believed all documents would be available to the public at the time we solicited comments on the draft negligible impact determination and on the proposal to issue the permit (79 FR 50626, August 25, 2014), the Moore and Barlow (in press) paper has not yet been published and made available for public review. Publication of the paper is imminent and NMFS has decided to extend the comment period to allow for publication of the paper and subsequent review of the paper for comments relevant to this proposed MMPA permit issuance. In this notice NMFS is extending the public comment period until October 24, 2014, to allow adequate time for the public to review the scientific information relevant to the amended permit under MMPA section 101(a)(5)(E) to vessels registered in the CA thresher shark/swordfish drift gillnet fishery ( $\geq$  in mesh) and vessels registered in WA/OR/CA sablefish pot fishery.

#### Information Solicited

To ensure that the amended permit under MMPA section 101(a)(5)(E) is based on the best scientific information available, we are soliciting public comments on the proposed permit and the preliminary determinations supporting the permit. Specifically, we seek comments on:

- The use of the revised abundance estimates in Moore and Barlow (in press)
- The use of a 13-year time period for estimating expected incidental mortality of sperm whales in the gillnet fishery.

Dated: September 19, 2014.

**Perry F. Gayaldo,**

*Deputy Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2014-22696 Filed 9-23-14; 8:45 am]

**BILLING CODE 3510-22-P**

#### DEPARTMENT OF COMMERCE

##### National Telecommunications and Information Administration

[Docket Number: 140821696-4696-01]

RIN 0660-XC012

##### First Responder Network Authority Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012

**AGENCY:** First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce.

**ACTION:** Notice and request for comments.

**SUMMARY:** The First Responder Network Authority (“FirstNet”) publishes this *Notice* to request public comment on certain proposed interpretations of its enabling legislation that will inform, among other things, forthcoming requests for proposals, interpretive rules, and network policies. With the benefit of the comments received from this *Notice*, FirstNet may proceed to implement these or other interpretations with or without further administrative procedure.

**DATES:** Submit comments on or before October 24, 2014.

**ADDRESSES:** The public is invited to submit written comments to this *Notice*. Written comments may be submitted electronically through [www.regulations.gov](http://www.regulations.gov) or by mail (to the address listed below). Comments received related to this *Notice* will be made a part of the public record and will be posted to [www.regulations.gov](http://www.regulations.gov) without change. Comments should be machine readable and should not be copy-protected. Comments should include the name of the person or organization filing the comment as well as a page number on each page of the submission. All personally identifiable information (*e.g.*, name, address) voluntarily submitted by the commenter

may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Eli Veenendaal, First Responder Network Authority, National Telecommunications and Information Administration, U.S. Department of Commerce, 12201 Sunrise Valley Drive, M/S 243, Reston, VA 20192; 703-648-4167; or [elijah.veenendaal@firstnet.gov](mailto:elijah.veenendaal@firstnet.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction and Background

The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112-96, Title VI, 126 Stat. 256 (codified at 47 U.S.C. 1401 *et seq.*)) (the “Act”) established the First Responder Network Authority (“FirstNet”) as an independent authority within the National Telecommunications and Information Administration (“NTIA”). The Act establishes FirstNet’s duty and responsibility to take all actions necessary to ensure the building, deployment, and operation of a nationwide public safety broadband network (“NPSBN”).<sup>1</sup>

One of FirstNet’s principal first steps in carrying out this responsibility under the Act is the issuance of open, transparent, and competitive requests for proposals (“RFPs”) for the purposes of building, operating, and maintaining the network. We have and will continue to seek public comments on many technical and economic aspects of these RFPs through traditional procurement processes, including requests for information (“RFIs”) and potential draft RFPs, prior to issuance of final RFPs.<sup>2</sup>

As a newly created entity, however, we are also confronted with many complex legal issues of first impression under the Act that will have a material impact on the RFPs, responsive proposals, and our operations going forward. Generally, the Administrative Procedure Act (“APA”) <sup>3</sup> provides the basic framework of administrative law governing agency action, including the procedural steps that must precede the effective promulgation, amendment, or repeal of a rule by a federal agency.<sup>4</sup>

<sup>1</sup> 47 U.S.C. 1426(b).

<sup>2</sup> The pronouns “we” or “our” throughout this *Notice* refer to “FirstNet” alone and not FirstNet, NTIA, and the U.S. Department of Commerce as a collective group.

<sup>3</sup> See 5 U.S.C. 551-59, 701-06, 1305, 3105, 3344, 5372, 7521.

<sup>4</sup> See 5 U.S.C. 551-559. The APA defines a “rule” as “the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates,

However, Section 6206(d)(2) of the Act provides that any action taken or decision made by FirstNet is exempt from the requirements of the APA.<sup>5</sup>

Nevertheless, although excluded from these procedural requirements, FirstNet desires to solicit public comment on, in addition to technical and economic issues, certain foundational legal issues to guide our efforts in achieving our mission. The solicitation of comments on proposed legal interpretations and related implementations is more typically performed in a notice and comment process, rather than within an RFI or RFP process, including publication in the more widely accessed **Federal Register**, rather than the vendor-focused *FedBizOpps*. In addition, although not subject to the procedural requirements of the APA, FirstNet is subject to various consultation obligations under the Act, and this notice and comment process can contribute to such consultations.<sup>6</sup>

Thus, in general FirstNet may pursue APA-like public notice and comment processes such as this *Notice*, and we intend to rely upon comments filed in response to this *Notice* to inform the above-referenced RFPs and our operations going forward. In addition, we may rely upon such comments to help inform any future implementations of the Act that we may undertake, such as establishing the network policies required by Section 6206(c)(1) of the Act.<sup>7</sup>

With respect to this *Notice*, where we have drawn a preliminary conclusion and sought comments thereon, we currently intend to issue a subsequent document indicating final interpretative determinations, taking into consideration the comments received. This subsequent document might not

wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances thereof or of valuations, costs, or accounting, or practices bearing on any of the foregoing.” 5 U.S.C. 551(4).

<sup>5</sup> 47 U.S.C. 1426(d)(2).

<sup>6</sup> See 47 U.S.C. 1426(b)(1) (“[FirstNet] shall . . . take all actions necessary to ensure the building, deployment, and operation of the [NPSBN], in consultation with Federal, State, tribal, and local public safety entities, the Director of NIST, the Commission, and the public safety advisory committee established in section 6205(a). . . .”). We note, however, that the specific consultations required under 47 U.S.C. 1426(c)(2)(A) must occur between FirstNet and the single officer or governmental body designated under Section 6302(d), and this *Notice* is not intended to address those consultations, which are ongoing. See 47 U.S.C. 1426(c)(2)(B). Comments from such designated single officer or governmental body are, of course, nevertheless welcomed in this proceeding. We expect to continue to consult directly with Federal agencies and, pursuant to its charter, with the public safety advisory committee established under 47 U.S.C. 1425(a).

<sup>7</sup> 47 U.S.C. 1426(c)(1).

precede release of the above-mentioned RFPs, which will nonetheless incorporate such final interpretive determinations in light of the received comments. Further, although we may, we do not now anticipate issuing further public notices and/or opportunities for comment or reply comments on the preliminary conclusions made in this *Notice*, and thus encourage interested parties to provide comments in this proceeding.

Where we have sought comment on a matter in this *Notice* without providing a preliminary conclusion, we may issue additional notices seeking comments on any preliminary conclusions we may reach following review and consideration of the comments responding to this *Notice*. That notice of preliminary conclusions, if issued, would then be followed by notice of final determinations. However, because we may not issue such a further notice of preliminary conclusions at all or prior to releasing the above-mentioned RFPs, we again encourage interested parties to provide comments in this proceeding.

## II. Issues

### A. FirstNet Network

#### 1. Elements of the Network

Section 6202(a) of the Act charges FirstNet with the duty to “ensure the establishment of a nationwide, interoperable public safety broadband network . . . based on a single, national network architecture. . . .”<sup>8</sup> Section 6202(b) defines the architecture of this network as initially consisting of a “core network” and a “radio access network,” with specific definitions discussed below.<sup>9</sup> In addition, Section 6206(b) requires FirstNet to take all actions necessary to ensure the building, deployment, and operation of the network, including issuing requests for proposals for the purposes of building, operating, and maintaining the network.<sup>10</sup> Thus, overall, FirstNet is responsible for ensuring the core network and radio access network is built, deployed, and operated.

Under the state and local implementation provisions of Section 6302, however, a State may, subject to the application process described in 6302(e), choose to conduct its own deployment of a radio access network in such State, including issuing requests for proposals for the construction, maintenance, and operation of the radio

<sup>8</sup> 47 U.S.C. 1422(a).

<sup>9</sup> See 47 U.S.C. 1422(b).

<sup>10</sup> See 47 U.S.C. 1426(b).

access network within the State.<sup>11</sup> Section 6302 does not provide for State deployment of a core network separate from the core network that FirstNet is charged with deploying under Sections 6202 and 6206. Section 6302(f) requires States that choose to build their own radio access network to pay any user fees associated with such State’s use of “the core network.”<sup>12</sup> The only user fees expressly defined under the Act are those FirstNet is authorized to assess and collect under Section 6208, and as mentioned above, the Act does not require any party other than FirstNet to build and operate a core network. In addition to and consistent with these statutory provisions, Sections 4.1.1 and 4.1.2 of the Interoperability Board Report<sup>13</sup> indicate that the FirstNet core network is the core network connected to and controlling opt-out State radio access networks. Thus, we preliminarily conclude that opt-out State radio access networks must use FirstNet’s core network to provide services to public safety entities. This conclusion is also supported by the overall interoperability goal of the Act, which would, from a technical and operational perspective, be more difficult to achieve if States deployed their own, separate core networks to serve public safety entities.<sup>14</sup> We seek comments on this preliminary conclusion.

Section 6202(b) of the Act defines the FirstNet “core network” as providing the connectivity between the radio access network and the public Internet

<sup>11</sup> See 47 U.S.C. 1442.

<sup>12</sup> 47 U.S.C. 1442(f).

<sup>13</sup> Section 6203 of the Act established the Technical Advisory Board for First Responder Interoperability (“Interoperability Board”) and directed it to develop minimum technical requirements to ensure the interoperability of the NPSBN. 47 U.S.C. 1423. On May 22, 2012, the Interoperability Board, in accordance with the Act, submitted its recommendations to the Commission in a report. See Interoperability Board, *Recommended Minimum Technical Requirements to Ensure Nationwide Interoperability for the Nationwide Public Safety Broadband Network* (“Interoperability Board Report”) (May 22, 2012), available at <http://apps.fcc.gov/ecfs/document/view?id=7021919873>. On June 21, 2012, the Commission completed its review of the Interoperability Board’s final report and approved it for transmittal to FirstNet. See FCC Order of Transmittal, Recommendations of the Technical Advisory Board for First Responder Interoperability, PS Dkt. No. 12–74, FCC 12–68 (rel. June 21, 2012), available at [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-12-68A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-12-68A1.pdf).

<sup>14</sup> We note that roaming among networks with separate core networks, potentially from different vendors, can substantially complicate the goal of a national, interoperable network. For example, features such as end-to-end QOS, priority, and preemption are controlled by several elements in the core network, and handling these features across multiple core networks would materially increase costs and complexity overall.

or PSTN.<sup>15</sup> Section 6202(b) further describes the parts of the “core network” to include “the national and regional data centers, and other elements and functions that may be distributed geographically . . . and provides connectivity between (i) the radio access network; and (ii) the public Internet or public switched network, or both . . . .”<sup>16</sup> In accordance with this provision, relevant sections of the Interoperability Board Report, and commercial standards, we define the core network as including without limitation the standard Evolved Packet Core elements under the 3rd Generation Partnership Project (“3GPP”) standards (including the Serving and Packet Data Network Gateways, Mobility Management Entity, and the Policy and Charging Rules Function), device services, location services, billing functions, and all other network elements and functions other than the radio access network.

Section 6202(b) defines the “radio access network” as consisting of all cell site equipment, antennas, and backhaul equipment required to enable wireless communications with devices using the public safety broadband spectrum.<sup>17</sup> We propose to define the radio access network in accordance with this provision, commercial standards, and the relevant sections of the Interoperability Board Report, as consisting of the standard E-UTRAN elements (including the eNodeB).

We seek comments on our preliminary conclusions regarding the definitions of core network and radio access network above, including the delineation of elements between them and any possible ramifications that would result based on this construct with respect to the achievement of FirstNet’s mission, particularly if a State elects to opt-out and build their own radio access network.

## 2. Public Safety Entities, Secondary Users, and Other Users

The Act clearly indicates that the NPSBN is intended primarily for use by public safety entities. Section 6101(a) of the Act generally directs the Federal Communications Commission (the “Commission”) to reallocate the 700 MHz D block spectrum “for use by *public safety entities* in accordance with the provisions of this Act.”<sup>18</sup> Section 6206(b)(2)(B)(ii) further requires that FirstNet ensure that equipment used on the NPSBN is “capable of being used by

any public safety entity.”<sup>19</sup> However, the Act also permits FirstNet to charge user fees to, and thus by direct implication serve, non-public safety entities under certain conditions.<sup>20</sup> We thus first propose to define below the legal scope of *all* potential *users* of the NPSBN, including both public safety entities and non-public safety users. In a later section, we will discuss the limitations imposed by the Act on the types of *services* FirstNet may offer to such users.

We note that FirstNet may, as a policy matter, decide to narrow the scope of users it actually serves relative to those it can legally serve if it determines it is reasonable and appropriate to do so in support of its mission. We also recognize that, even among the multiple user groups who are allowed to use the NPSBN, separate priority and preemption parameters will be established. In the future and following appropriate consultations, we will fully address the priority and preemptive use of and access to the NPSBN among the various user groups. Prior to that, we address below the specific types of users that FirstNet is statutorily authorized to serve on the NPSBN.

In determining who is legally authorized to use the NPSBN it is helpful to first examine whether the Act expressly precludes any specific user group. We preliminarily conclude that the Act does not contain a list of expressly precluded users. Section 6212, discussed more fully in the next section of this *Notice*, comes closest to such a preclusion by limiting the types of services that can be provided directly to “consumers.”<sup>21</sup> Section 6206(c)(2)(A)(vi) otherwise supports our general interpretation by requiring FirstNet to consult with regional, State, tribal, and local jurisdictions with regard to expenditures required to carry out policies on the “selection of entities seeking access to or use of” the network.<sup>22</sup> We preliminarily conclude that the Act grants FirstNet discretion, within the bounds of the provisions discussed below, to consider a broad range of users consistent with FirstNet’s mission.

To reach this conclusion, we first look to the sections of the Act involving the imposition of fees to provide greater clarity about the users authorized to use the NPSBN. Section 6208(a)(1) permits FirstNet to charge “user or subscription” fees to “each entity, *including* any public safety entity or

secondary user, that seeks access to or use of the [NPSBN].”<sup>23</sup> We note that this provision uses the word “including,” rather than, for example, a limiting word such as “consisting” as used in Section 6202(b), which identifies the closed set of specific network components making up the NPSBN.<sup>24</sup>

Thus, although this provision explicitly identifies public safety entities and secondary users as entities for which FirstNet may charge user or subscription fees, it does appear to leave open the possibility of a group of other, unspecified entities as NPSBN users to which FirstNet may charge a network user fee, and thus presumably provide service. For example, Section 6302(f) further authorizes FirstNet to charge opt-out States “user fees” associated with use of FirstNet’s core network.<sup>25</sup> As discussed below, we preliminarily conclude that such opt-out States could constitute either public safety entities or fall within this other, unspecified category of entities within Section 6208(a)(1) in their capacity as an entity seeking access to and use of the FirstNet core network. Similarly, Section 6208(a)(3) authorizes us to collect a fee from any entity that seeks access to or use of any network equipment or infrastructure.<sup>26</sup> Such entities could also possibly fall under the other category of unspecified users or, like opt-out States, be considered users of the NPSBN by virtue of our direct authority to charge a fee for access to or use of any network equipment or infrastructure. We seek comments on the preliminary conclusions above.

### i. Public Safety Entities

A public safety entity is defined in Section 6001(26) of the Act as an “entity that provides public safety services.”<sup>27</sup> We note here that the Act does not include any express language requiring a minimum amount or frequency of providing such services, but merely required that an entity provide such services, even if not full time. As is more fully discussed below, we preliminarily conclude that an entity may offer other services in addition to a *non-de minimis* amount of public safety services and still qualify as a public safety entity.

Public safety services, in turn, are defined in the Act as having “the meaning given the term in section 337(f) of the Communications Act of 1934 [the

<sup>15</sup> 47 U.S.C. 1422(b)(1).

<sup>16</sup> *Id.*

<sup>17</sup> 47 U.S.C. 1422(b)(2).

<sup>18</sup> 47 U.S.C. 1411 (emphasis added).

<sup>19</sup> 47 U.S.C. 1426(b)(2)(B)(ii).

<sup>20</sup> 47 U.S.C. 1428(a)(1–3), 1442(f).

<sup>21</sup> See 47 U.S.C. 1432.

<sup>22</sup> 47 U.S.C. 1426(c)(2)(A)(vi).

<sup>23</sup> 47 U.S.C. 1428(a)(1) (emphasis added).

<sup>24</sup> 47 U.S.C. 1442(b).

<sup>25</sup> 47 U.S.C. 1442(f).

<sup>26</sup> 47 U.S.C. 1428(a)(3).

<sup>27</sup> 47 U.S.C. 1401(26).

“Communications Act”] (47 U.S.C. 337(f)); and (B) includes services provided by emergency response providers, as that term is defined in section 2 of the Homeland Security Act of 2002 [the “HSA”] (6 U.S.C. 101).”<sup>28</sup> Accordingly, we preliminarily conclude that “public safety services” are services that are either those satisfying Section 337(f) of the Communications Act or services satisfying Section 2 of the HSA. We believe an alternative interpretation requiring compliance with both definitions, rather than either definition, would not be an appropriate treatment of the word “includes” in the provision and would unduly constrain the pool of potential public safety entities that could use the network to a group smaller than either the Communications Act or the HSA definition would allow. We seek comment on this preliminary conclusion.

a. 47 U.S.C. 337(f)

The Communications Act defines “public safety services” to mean services:

(A) the sole or principal purpose of which is to protect the safety of life, health or property; (B) that are provided by (i) State or local government entities, or (ii) by non-governmental organizations that are authorized by a governmental entity whose primary mission is the provision of such services; and (C) that are not made commercially available to the public by the provider.<sup>29</sup>

This prong of the definition of public safety services defines these services by referencing both the purpose of the services and those entities that provide them. However, the Communications Act’s definition of public safety services has historically been applied not in the context of determining entities that provide services, but rather to restrict or define the particular services that can be provided over limited-use spectrum. In contrast, the Act purports to define an entity, rather than a service, as one that performs certain services.

Accordingly, the definition of public safety entity under the Act will turn on the services being provided by the entity, with the definition of such services under the Communications Act turning on both (1) the nature of the services and (2) the entity providing them. In the case of a service in general, an entity may perform different kinds of services, only some of which may qualify as public safety services. In the case of a public safety entity as defined in the Act, however, there is no “primary mission” restriction on the

entity as there is in the Communications Act definition of public safety services. Nevertheless, when we consider just the Communications Act prong of the definition of public safety services in the Act, a public safety entity under the Act may be limited, by definition, to the entities referenced in the Communications Act definition of public safety services.

To aid our interpretation of the Act, we have examined how the Commission has interpreted this Communications Act definition. On July 21, 2011, the Commission issued an Order interpreting Section 337(f) in connection with permissible uses of the 763–768 MHz and 793–798 MHz public safety broadband spectrum, which is now a portion of the spectrum licensed to FirstNet.<sup>30</sup> This Order provided “guidance on the scope of permissible operations under Section 337 of the Communications Act as undertaken by state, local, and other governmental entities.”<sup>31</sup> The Commission provided several specific examples of potential permissible uses by personnel of governmental entities that are informative for purposes of defining “public safety entity” under the Act. These include:

(1) Entities supporting airport operations when “ensuring the routine safety of airline passengers, crews, and airport personnel and property in a complex air transportation environment.”<sup>32</sup>

(2) Transportation departments in the design and maintenance of roadways, the installation and maintenance of traffic signals and signs, and other activities that affect the safety of motorists and passengers.<sup>33</sup>

(3) City planning departments to ensure compliance with building and zoning codes intended to protect the safety of life and property.<sup>34</sup>

(4) Entities protecting the safety of animals, homes, and city infrastructure, particularly in crisis situations.<sup>35</sup>

We give deference to the conclusions reached by the Commission in its interpretation of Section 337(f)(1) to inform our interpretation of “public safety services” as defined in the Act. Thus, we preliminarily conclude that entities providing the services described in the Commission’s Order, above, would qualify as public safety entities

<sup>30</sup> See Service Rules for the 698–746, 747–762 and 777–792 MHz Bands, Fourth Report and Order, 26 FCC Rcd. 10799 (F.C.C. July 21, 2011) (*Fourth Report and Order*).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 10808.

<sup>33</sup> See *id.*

<sup>34</sup> See *id.* at 10809.

<sup>35</sup> See *id.* at 10808.

for purposes of the Act. We seek comment on this preliminary conclusion. We also seek comment on other entities and services that should so qualify.

Section 337(f)(1)(B)(ii) also provides that public safety services can be performed “by non-governmental organizations that are authorized by a governmental entity whose primary mission is the provision of such services.”<sup>36</sup> In its Order, the Commission did not address services performed by non-governmental organizations. We preliminarily conclude that the Commission’s description with respect to services provided by governmental entities should equally apply to services provided by non-governmental entities as contemplated by Section 337(f)(1). We thus seek comments on the types of non-governmental organizations that, were they to provide the services the Commission addressed with respect to governmental entities, would qualify under Section 337(f) of the Communications Act as providing public safety services. We also seek comments on other non-governmental organizations and services that should so qualify.

In order to understand which non-governmental entities under Section 337 would qualify as public safety entities, one must first identify the types of governmental entities whose primary mission is the provision of public safety services, as these entities can, in turn, authorize non-governmental organizations to provide public safety services under Section 337(f)(1)(b)(ii). Section 337(f) of the Communications Act refers to such entities as “a governmental entity whose primary mission is the provision of [public safety] services.”<sup>37</sup> We seek comments on which governmental entities may authorize non-governmental organizations to provide public safety services based on this “primary mission” limitation. For example, we seek comments on whether state utility commissions, health departments, and police and fire agencies qualify as such entities. We also seek comments on what other governmental entities would so qualify.

b. HSA Section 2

Section 6001(27) of the Act states that public safety services are not only services defined in Section 337 of the Communications Act, but also are services provided by “emergency response providers” as that term is

<sup>36</sup> 47 U.S.C. 337(f)(1)(b)(ii).

<sup>37</sup> *Id.*

<sup>28</sup> 47 U.S.C. 1401(27) (emphasis added).

<sup>29</sup> 47 U.S.C. 337(f)(1).

defined by HSA Section 2.<sup>38</sup> “Emergency response providers” include “Federal, State, and local governmental and nongovernmental emergency public safety, fire, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.”<sup>39</sup>

Thus, under the Act, a public safety entity is also an entity performing the services performed by “emergency response providers.” The inclusion in the Act of the HSA definition arguably expands the list of potential public safety services beyond that provided in the definition in Section 337 of the Communications Act, in that the HSA definition does not include a “primary mission” limitation and specifically identifies “personnel” in addition to agencies and authorities as emergency response providers. The HSA definition thus raises the question as to whether a public safety “entity” under the Act can be a person in addition to an organization.<sup>40</sup> While Section 337(f) of the Communications Act indicates that public safety services are services provided only by governmental entities and nongovernmental organizations, the Act’s inclusion of services provided by emergency response providers per HSA Section 2 could reasonably be interpreted to mean that personnel should be considered public safety entities under the Act when providing services that would otherwise be considered public safety services. Thus, we preliminarily conclude individuals may fall within the definition of “public safety entity” so long as they are serving in their official capacity.<sup>41</sup> Given this preliminary conclusion, both volunteer firefighters and the fire departments for which they serve, for example, would qualify as a public safety entity. FirstNet seeks comment on this preliminary conclusion.

In reaching this preliminary conclusion, we also note that while the definition of public safety services under Section 337(f) of the Communications Act is limited to those

services “the sole or principal purpose of which is to protect the safety of life, health, or property,” such a limitation is not present in the HSA definition, or in the definition of public safety entity in the Act itself. Thus, when read in totality, the Act does not limit the definition of public safety entity to those entities that solely, or even primarily, provide such services, given the HSA Section 2 component of the definition. Congress limited the definition of public safety entity in the Communications Act, but, given the incorporation of HSA Section 2 into the Act, we preliminarily conclude that Congress imposed no such limitation here. As a result, the Act does not appear to require any minimum amount of time that an entity must provide public safety services in order to qualify as a public safety entity under the Act. We thus preliminarily conclude that, so long as an entity performs a non-*de minimis* amount of public safety services, even if it provides other services, it will qualify as a public safety entity under the Act.<sup>42</sup>

Finally, HSA Section 2 indicates that “emergency response providers” include not only “Federal, State, and local governmental and nongovernmental emergency public safety, fire, law enforcement, emergency response, emergency medical (including hospital emergency facilities) . . . personnel, agencies, and authorities” but also “related personnel, agencies, and authorities.”<sup>43</sup> We preliminarily interpret the term “related personnel, agencies, and authorities” as personnel, agencies, and authorities providing support to public safety entities in their mission as it would further the public safety goals of the Act to facilitate interoperable communications between public safety entities and the personnel, agencies, and authorities supporting them. Therefore, we preliminarily conclude that the Act identifies public safety entities under the HSA Section 2 prong as:

- (1) Any Federal, State, and local governmental and nongovernmental emergency public safety, fire, law enforcement, emergency response, and emergency medical (including hospital emergency facilities) personnel, agencies, and authorities; and
- (2) Personnel, agencies, and authorities providing support to

Federal, State, and local governmental and nongovernmental emergency public safety, fire, law enforcement, emergency response, emergency medical (including hospital emergency facilities) personnel, agencies, and authorities.

We seek comments on these preliminary conclusions and on which specific personnel, agencies, and authorities might then qualify as “related” or providing support to the Federal, State, and local governmental and nongovernmental personnel, agencies, and authorities listed in the HSA definition.

#### ii. Secondary Users

As discussed above, the term “secondary user” is also expressly used in the Act to describe a particular category of FirstNet user. Although there is no express definition of secondary user in the Act, Section 6208(a)(2), which addresses covered leasing agreements with “secondary users,” could be interpreted to implicitly define a secondary user as one that “access[es] . . . network capacity on a secondary basis,” or, as Section 6208(a)(2) goes on to provide, “access[es] . . . network capacity on a secondary basis for non-public safety services.”<sup>44</sup>

In the context of the Act, the “secondary basis” is presumably “secondary” to use by public safety entities, which would be considered primary users. Because FirstNet believes certain public safety users will themselves ultimately be subject to prioritization and/or preemption by other public safety users, FirstNet does not believe the “secondary basis” referenced in the Act can be defined solely as those users subject to such prioritization or preemption. Indeed, certain public safety entities may, at times, be performing preemptable public safety services or preemptable non-public safety services.

The references to secondary users provided in Sections 6212 and 6302(g) also do not appear to be conclusive as to whether secondary users include users other than those that enter into covered leasing agreements, which is the only explicit arrangement identified within the Act describing a secondary use of the NPSBN.<sup>45</sup> Section 6208(a)(2) sets out very specific criteria for covered leasing agreements with secondary users.<sup>46</sup> The Act defines a covered leasing agreement as a written agreement resulting from a public-private arrangement to construct,

<sup>38</sup> See 47 U.S.C. 1401(27)(B).

<sup>39</sup> 6 U.S.C. 101(6).

<sup>40</sup> We note that the Supreme Court has interpreted the word ‘entity’ to typically refer to an organization, rather than an individual. *Samantar v. Yousuf*, 560 U.S. 305, 315 (2010). However, the Court noted that the analysis of whether an entity should include an individual must be made by reference to the underlying statutory definition, terms and components. In *Samantar*, the Court noted in reaching its conclusion that the statutory terms of the Foreign Sovereign Immunities Act of 1976, as drafted, would have to be awkwardly applied in order to include individuals within the meaning of entity in that context. See *id.*

<sup>41</sup> 47 U.S.C. 337(f)(1)(A).

<sup>42</sup> This does not mean that as a policy matter, rather than a legal matter, FirstNet may not further restrict an entity’s use of the network, for example, to only those times it is providing public safety services or restrict access to the network to only those entities who have public safety as a primary mission.

<sup>43</sup> 6 U.S.C. 101(6) (emphasis added).

<sup>44</sup> 47 U.S.C. 1428(a)(2) (emphasis added).

<sup>45</sup> 47 U.S.C. 1432, 1442(g).

<sup>46</sup> 47 U.S.C. 1428(a)(2).

manage, and operate the public safety broadband network between FirstNet and a secondary user to permit: “(1) access to network capacity on a secondary basis for non-public safety services; and (2) the spectrum allocated to such entity to be used for commercial transmissions along the dark fiber of the long-haul network of such entity.”<sup>47</sup> Given the specificity with which Congress set out conditions for non-public safety use of network capacity, we seek comments on a preliminary definition of secondary user as a user that accesses network capacity on a secondary basis for its own, or the provision of, non-public safety services only. We also seek comments on whether, notwithstanding the language in Section 6208(a)(1) permitting FirstNet to charge network user fees to secondary users, the definition should be constrained further to limit secondary users to those entering into covered leasing agreements.<sup>48</sup>

A definition limiting secondary users to non-public safety use would be consistent with our preliminary approach, discussed in the previous section, regarding the definition of public safety user, whereby the definition of that term includes any entity that performs public safety services at any time in any non-*de minimis* amount. Thus, for example, an electric utility could come within the definition of public safety entity (and could also be a party to a covered leasing agreement), but FirstNet policies and procedures, along with local public safety control of prioritization and preemption, would likely regulate its use of the NPSBN.

We also note that, in addition to the fee for leasing network capacity under a covered leasing agreement which can be charged under Section 6208(a)(2), the Act, under section 6208(a)(1), permits FirstNet to charge secondary users a network user fee for using or accessing the NPSBN.<sup>49</sup> Although in and of itself this provision would not necessarily require a change to the definition of secondary user proposed above, we seek comments on whether the inclusion of the term in subsection (a)(1) should affect the definition of secondary user.

### iii. Entities Other Than Public Safety Entities and Secondary Users Seeking Access to or Use of the NPSBN

As discussed above, we preliminarily conclude that Section 6208(a)(1) permits FirstNet to charge a fee to a category of user beyond public safety entities and

secondary users. We seek comments on which potential users could fall into this category.<sup>50</sup> In addition, we seek comments on whether users identified in Section 6208(a)(3) (those seeking access to or use of any equipment or infrastructure constructed or otherwise owned by FirstNet) and Section 6302(f) (opt-out States seeking use of the core network) fall within this third category of user, constitute their own unique category of users, or fall within the definition of public safety entity or secondary user for purposes of Section 6208(a)(1).<sup>51</sup>

### 3. Services

As previously discussed, FirstNet is permitted to assess or collect certain fees related to the services that it offers. Sections 6208 and 6302 specifically permit us to assess and collect: (1) Network user fees from users seeking access to or use of the NPSBN; (2) fees associated with covered leasing agreements; (3) fees related to the leasing of our network equipment and infrastructure; and (4) user fees from opt-out States that seek use of elements of our core network.<sup>52</sup> Section 6212(a), however, specifies that FirstNet “shall not offer, provide, or market commercial telecommunications or information services directly to consumers.”<sup>53</sup>

The Act does not define the word “consumer” or indicate whether the word is limited to individuals or includes organizations and businesses. In contrast, the Act does provide a specific, multi-pronged definition of public safety entity, as noted above. As a result of this contrast, we preliminarily conclude that regardless how “consumer” is defined, Section 6212 was not intended to limit potential types of public safety entities that may use or access the NPSBN for commercial telecommunications or information services.

In addition, under the rule of construction outlined in subsection 6212(b), nothing in Section 6212 is intended to prohibit FirstNet from entering into covered leasing agreements with secondary users, and thus we preliminarily conclude that Section 6212 at the very least does not act as a limitation on secondary users in the context of covered leasing agreements. We also preliminarily conclude that, given the definition of

secondary user discussed above, Section 6212 was not intended to limit the pool of secondary users seeking access to or use of the network on a secondary basis. We seek comments on these preliminary conclusions.

Thus, we preliminarily conclude that a “consumer” under the Act is neither a public safety entity nor a secondary user. Further, given the express authorizations in Section 6302(f) for FirstNet to impose user fees on opt-out States, and in Section 6208(a)(3) to impose lease fees on entities that seek access to or use of equipment or infrastructure, we also preliminarily conclude that such States and entities are not intended to qualify as a consumer (which would otherwise disqualify them as a user subject to fee assessments) when seeking access to or use of the core network, and equipment and infrastructure, respectively. We also seek comments on the kinds of services that this provision is intended to preclude FirstNet from otherwise offering and the scope of the limitations imposed by the provision. For example, we note that we are expressly authorized to enter into covered leasing agreements that would presumably permit the secondary user involved to provide commercial services, including potentially telecommunications or information services, directly to consumers.<sup>54</sup> Finally, we seek comment on whether this provision implicitly outlines additional services that FirstNet may offer.

For purposes of interpreting the Act with respect to FirstNet’s potential service offerings,<sup>55</sup> we note that the Act also provides guidance concerning the services that may be offered by a State that chooses to build its own radio access network. Specifically, Section 6302(g)(1) precludes opt-out States from “provid[ing] commercial service to consumers or offer[ing] wholesale leasing capacity of the network within the State except directly through public-private partnerships for construction, maintenance, operation, and improvement of the network within the State.”<sup>56</sup>

FirstNet interprets Section 6302(g)(1) to mean that States cannot offer commercial services to consumers and can only lease network capacity through a public-private partnership for the purposes of in-state construction, maintenance, operation and

<sup>50</sup> *Id.* We note that Section 6212 of the Act, discussed more fully in the section of this Notice on Services below, places limitations on the services that we can provide to this third category of user.

<sup>51</sup> 47 U.S.C. 1428(a)(3), 1422(f), 1428(a)(1).

<sup>52</sup> 47 U.S.C. 1428, 1442.

<sup>53</sup> 47 U.S.C. 1432(a).

<sup>54</sup> See 47 U.S.C. 1428(a)(2)(B).

<sup>55</sup> We may address the interpretation of opt-out related provisions and process in subsequent notices or rulemakings.

<sup>56</sup> 47 U.S.C. 1442(g)(1).

<sup>47</sup> *Id.*

<sup>48</sup> 47 U.S.C. 1428(a)(1).

<sup>49</sup> 47 U.S.C. 1428(a)(1).

improvement. We seek comment on this preliminary conclusion.

### B. Requests for Proposals

#### 1. Requests for Proposals Process

Section 6206(b)(1)(B) requires FirstNet to issue “open, transparent, and competitive” RFPs.<sup>57</sup> The procedural requirements for issuing such RFPs are not defined in the Act itself.

FirstNet, however, is not expressly excluded from the applicability of the Federal Acquisition Regulation (“FAR”), codified in 48 CFR Parts 1–99. The FAR is the primary regulation for use by all Federal Executive agencies in their acquisition of supplies and services with appropriated funds. Assuming application of the FAR, we preliminarily conclude that in complying with the FAR in such instances, FirstNet will satisfy the requirements of Section 6206(b)(1)(B). The FAR provides that “the Federal Acquisition System will . . . promote competition . . . [and] conduct business with integrity, fairness, and openness.”<sup>58</sup> We believe the standards established in the FAR that promote a competitive, fair, and open process for acquiring goods and services fall within the “open, transparent, and competitive” standard of Section 6206(b)(1)(B). We seek comments on this preliminary conclusion.

We also seek comments more generally on the appropriate interpretation of the “open, transparent, and competitive” standard of Section 6206(b)(1)(B) in this context, including how that standard should be interpreted in light of the Act’s use of a “fair, transparent, and objective” standard in Section 6205(b)(1).<sup>59</sup>

#### 2. Minimum Technical Requirements

Section 6206(b)(1)(B) requires FirstNet to issue RFPs for the purposes of building, operating, and maintaining the network that use, without materially changing, the minimum technical requirements developed by the Interoperability Board.<sup>60</sup> We interpret this provision to permit FirstNet to make non-material changes or additions/subtractions to the minimal technical requirements developed by the Interoperability Board.<sup>61</sup> We seek comments on how to delineate such non-material changes from those that are material. In addition, we seek

comments on how to reconcile this provision with the requirements in Sections 6202(b) and 6206(c)(4) regarding FirstNet’s obligations to accommodate advancements in technology.<sup>62</sup>

#### 3. Defining the Term “Rural”

Section 6206(b)(3) directs that FirstNet “shall require deployment phases with substantial *rural* coverage milestones as part of each phase of the construction and deployment of the network . . . [and] utilize cost-effective opportunities to speed deployment in *rural* areas.”<sup>63</sup> Additionally, Section 6206(c)(1)(A)(i) states, in relevant part, that FirstNet “shall develop . . . requests for proposals with appropriate . . . timetables for construction, including by taking into consideration the time needed to build out to *rural* areas.”<sup>64</sup> Finally, Section 6206(c)(1)(A)(ii) of the Act explains that FirstNet “shall develop . . . requests for proposals with appropriate . . . coverage areas, including coverage in *rural* and nonurban areas.”<sup>65</sup>

Although the Act does not define the term “rural,” we believe we must define this term to fulfill our duties with regard to the important rural coverage requirements in the Act.<sup>66</sup> Several

<sup>62</sup> See 47 U.S.C. 1422(b), 1426(c)(4). Note that the Interoperability Board Report states that “[g]iven that technology evolves rapidly, the network components and associated interfaces identified in the [Interoperability Board Report] . . . are also expected to evolve over time. As such, these aspects of the present document are intended to represent a state-of-the-art snapshot at the time of writing. In this context, the standards, functions, and interfaces referenced in the present document are intended to prescribe statements of intent. Variations or substitutions are expected to accommodate technological evolution consistent with the evolution of 3GPP and other applicable standards.” Interoperability Board Report at 27.

<sup>63</sup> 47 U.S.C. 1426(b)(3) (emphasis added).

<sup>64</sup> 47 U.S.C. 1426(c)(1)(A)(i) (emphasis added).

<sup>65</sup> 47 U.S.C. 1426(c)(1)(A)(ii) (emphasis added).

<sup>66</sup> We appreciate the position the Commission has taken in this regard, and we are committed to fulfill our duties in a way that will meet these rural coverage requirements. See Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012 et al., PS Docket 12–94 et al., Notice of Proposed Rulemaking, 28 FCC Rcd 2715, 2728–29 ¶ 46 (2013) (Band 14 NPRM) (noting that, “We do not believe the Commission should specify rural milestones as a condition of FirstNet’s license at this time. Rather, we recognize that at this early stage, the success of FirstNet requires flexibility with respect to deployment and planning, including deployment in rural areas. Moreover, FirstNet has an independent legal obligation under the Act to develop requests for proposals with appropriate timetables for construction, taking into account the time needed to build out in rural areas, and coverage areas, including coverage in rural and nonurban areas. In addition, in light of the Congressional oversight that will be exercised over FirstNet and its other transparency, reporting and consultation obligations, we do not believe it is necessary for the

sources define the term “rural,” but we believe, for example, the Rural Electrification Act is a reasonable definition to use under the Act and may further the goals of the Act for several reasons. First, we believe the definition may be sufficiently precise and granular to guide potential vendors and FirstNet and ensure due consideration of such areas. Secondly, the Rural Electrification Act’s definition of “rural area” is widely known and familiar to rural telecommunications providers, rural communities, and other stakeholders that will be impacted by FirstNet’s mandate to carefully consider rural areas. Adoption of this definition would obviate the need for FirstNet to take additional, time-consuming steps to educate itself and the stakeholder community on the parameters of a novel or less familiar definition of “rural” or “rural area.” Finally, the USDA bases its definition of “rural area” upon the definition in the Rural Electrification Act for purposes of implementing its Rural Broadband Access Loan and Loan Guarantee Program. This USDA program funds the costs of construction, improvement, and acquisition of facilities and equipment to provide broadband service to eligible rural areas, and thus we believe the definition may be suitable for our related purposes.<sup>67</sup> Accordingly, we seek comments on using this interpretation.<sup>68</sup>

Therefore, we preliminarily conclude that we should define “rural” as having the same meaning as “rural area” in Section 601(b)(3) of the Rural Electrification Act of 1936, as amended (“Rural Electrification Act”).<sup>69</sup> Section 601(b)(3) of the Rural Electrification Act provides that “[t]he term ‘rural area’ means any area other than—(i) an area described in clause (i) or (ii) of Section 1991(a)(13)(A) of this title [section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act]; and (ii) a city, town, or incorporated area that has a population of greater than 20,000 inhabitants.”<sup>70</sup> In turn, the relevant portion of Section 343(a)(13)(A) of the Consolidated Farm and Rural Development Act explains that the “terms ‘rural’ and ‘rural area’ mean any

Commission to set specific benchmarks in this regard in these rules.”).

<sup>67</sup> See About the Farm Bill Loan Program, USDA, available at [http://www.rurdev.usda.gov/utp\\_farmbill.html](http://www.rurdev.usda.gov/utp_farmbill.html) (last visited May 27, 2014).

<sup>68</sup> We also considered similar definitions of “rural” and “rural area” utilized by other federal sources, including the U.S. Bureau of the Census, Office of Management and Budget (OMB), and the Commission.

<sup>69</sup> 7 U.S.C. 950bb(b)(3), amended by the Agricultural Act of 2014, Public Law 113–79, 128 Stat. 649.

<sup>70</sup> *Id.*

<sup>57</sup> 47 U.S.C. 1426(b)(1)(B).

<sup>58</sup> 48 CFR 1.102, 2.101.

<sup>59</sup> See 47 U.S.C. 1425(b)(1) (describing the standard FirstNet must follow when selecting agents, consultants, or experts).

<sup>60</sup> 47 U.S.C. 1426(b)(1)(B); 47 U.S.C. 1423.

<sup>61</sup> Interoperability Board Report, *supra* n. 10.

area other than—(i) a city or town that has a population of greater than 50,000 inhabitants; and (ii) any urbanized area contiguous and adjacent to a city or town described in clause (i).<sup>71</sup> Taken collectively, the Rural Electrification Act defines the term “rural area” as a city, town, or incorporated area that has a population of less than 20,000 inhabitants and is not adjacent and contiguous to an urbanized area that has a population of greater than 50,000 inhabitants. We also seek comments on whether the adjacency prong of the definition will pose any difficulties in applying the definition under the Act.

Further, FirstNet intends to use the proposed definition of “rural” for purposes of implementing the “substantial rural coverage milestones” as set forth in Section 6206(b)(3). We seek comments on how to interpret the terms “substantial rural coverage milestones” and how to implement this requirement. For example, we seek comments regarding whether the terms “substantial rural coverage” should be defined only in terms of geographic coverage, or whether other factors, such as population or the frequency of first responder activity in an area, should be included. In addition, we seek comments on whether we should define a separate term for a frontier or wilderness area that would bound the term rural in connection with provisions of the Act. For example, we seek comment on whether a population density below a five person per square mile or lower standard should be considered frontier, rather than rural, for purposes of the Act.

Finally, Section 6206(c)(1)(A)(ii), as discussed above, explains that FirstNet “shall develop . . . requests for proposals with appropriate . . . coverage areas, including coverage in rural and nonurban areas.”<sup>72</sup> We seek comments on the distinction between the terms rural and nonurban areas and how to define the term “nonurban” under the Act.

#### 4. Existing Infrastructure

The Act encourages FirstNet to consider leveraging existing infrastructure when “economically desirable.”<sup>73</sup> Section 6206(b)(1)(C) of the Act requires FirstNet in issuing RFPs to “encourag[e] that such requests leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to

speed deployment of the network.”<sup>74</sup> Section 6206(b)(3), which addresses rural coverage and issuing RFPs, directs that “[t]o the maximum extent economically desirable, such proposals shall include partnerships with existing commercial mobile providers to utilize cost-effective opportunities to speed deployments in rural areas.”<sup>75</sup> Section 6206(c)(3) additionally requires that “[i]n carrying out the requirements under subsection (b), the First Responder Network Authority shall enter into agreements to utilize, to the maximum extent economically desirable, existing (A) commercial or other communications infrastructure; and (B) Federal, State, tribal, or local infrastructure.”<sup>76</sup>

Section 6206(b)(1)(C) appears to relate to issuing RFPs referenced in 6206(b)(1)(B) and requires FirstNet to “encourag[e] that such requests leverage, to the maximum extent economically desirable,” existing infrastructure.<sup>77</sup> The use of the term “encourage,” however, implies that FirstNet may not be in direct control of these requests. Alternatively, this provision could be intended to require FirstNet to encourage the *proposals* provided in response to FirstNet’s requests to leverage existing infrastructure. Because the “requests” referenced in subsection (b)(1)(C) appear to be those required of FirstNet in subsection (b)(1)(B), we preliminarily conclude that subsection (b)(1)(C) is intended to require FirstNet to encourage, through its requests, that responsive *proposals* leverage existing infrastructure in accordance with the provision. We seek comments on this preliminary conclusion.

Section 6206(b)(3) states that with regard to FirstNet’s issuing requests for proposals, “such *proposals* shall include partnerships with existing commercial mobile providers” to the maximum extent economically desirable to utilize cost-effective opportunities to speed deployment in rural areas.<sup>78</sup> Unlike subsection (b)(1)(C), this provision addresses “proposals,” but does so without directly requiring FirstNet to act in some way. We nevertheless preliminarily interpret this provision as requiring FirstNet to include in its requests that such proposals leverage such partnerships where economically desirable. We seek comments on this preliminary conclusion, and also on whether

FirstNet or the supplier responding to a FirstNet request is intended to make the actual economic desirability assessment under the provision. We preliminarily conclude that FirstNet is to make that determination, but could do so through, for example, requiring and evaluating competitive proposals from carriers with facilities in rural areas. We also seek comment on whether FirstNet or a supplier responding to a FirstNet request or both are required to enter into the referenced partnerships, and the nature of such partnerships.

Section 6206(c)(3) states that FirstNet, in carrying out the requirements of subsection (b), which include, but are not limited to, issuing RFPs, “shall *enter into agreements* to utilize, to the maximum extent economically desirable” certain existing infrastructure.<sup>79</sup> Thus, unlike the provisions discussed above, this provision expressly references neither requests nor proposals.

We note, however, that, as discussed above in this *Notice*, FirstNet is not expressly excluded from the applicability of the FAR, and thus when FirstNet itself enters into agreements to utilize the infrastructure described in Section 6206(c)(3), such agreements would likely be subject to the competitive processes of the FAR. FirstNet could also enter into an agreement, via such competitive process, with a private sector entity, which in turn contracts for use of State, tribal, or local infrastructure (whether or not through a competitive process). We seek comments on this interpretation.

Each of these sections, as stated above, requires FirstNet to leverage existing infrastructure to the extent it is “economically desirable.” We seek comments on an appropriate definition of and approach to assessing what is “economically desirable,” and the factors that should be considered, and by whom, in each of the sections imposing the standard. For example, in weighing economic desirability with respect to the speed of rural deployment, we seek comments on how to balance costs with speed.

In addition, we seek comments on the distinctions between the various types of existing infrastructure referenced in the three sections: Commercial wireless infrastructure; commercial mobile providers; commercial infrastructure; other communications infrastructure; and Federal, State, tribal, or local infrastructure. For example, we seek comments on whether the term “commercial mobile provider” should exclude resellers or other non-facilities-

<sup>71</sup> 7 U.S.C. 1991(a)(13)(A), *amended by the Agricultural Act of 2014, Public Law 113–79, 128 Stat. 649.*

<sup>72</sup> 47 U.S.C. 1426(c)(1)(A)(ii) (emphasis added).

<sup>73</sup> See 47 U.S.C. 1426(b)(1)(C), (b)(3), (c)(3).

<sup>74</sup> 47 U.S.C. 1426(b)(1)(C).

<sup>75</sup> 47 U.S.C. 1426(b)(3).

<sup>76</sup> 47 U.S.C. 1426(c)(3).

<sup>77</sup> 47 U.S.C. 1426(b)(1)(C) (emphasis added).

<sup>78</sup> 47 U.S.C. 1426(b)(3) (emphasis added).

<sup>79</sup> 47 U.S.C. 1426(c)(3) (emphasis added).

based providers. Finally, we seek comments on how to factor in the transaction costs of collecting, analyzing, establishing terms and conditions for, and potentially leveraging the millions of “pieces” of infrastructure covered by the literal terms of the Act into our assessment of “economic desirability.” For example, we seek comments on the extent to which such assessments of economic desirability are simply embedded in a competitive RFP process.

### C. Fees

Section 6208(a) authorizes FirstNet to assess and collect three sets of fees notwithstanding Section 337 of the Communications Act.<sup>80</sup> We first seek comments on whether the list of fees in Section 6208(a), which we interpret below to also include the fee for core network use from Section 6302(f), are exclusive and thus the only fees FirstNet may assess and collect, at least under the authority of the Act.<sup>81</sup>

#### User Fees

Sections 6208(a)(1) and 6302(f) provide the authority and describe the circumstances under which FirstNet may assess and collect network user fees for access to and use of the NPSBN.<sup>82</sup> FirstNet interprets the network user fees described in Section 6302(f) as being a specifically authorized subset of fees under Section 6208(a)(1) for “use of” the core network. We believe user fees authorized by Section 6208(a)(1) are distinct from covered leasing fees authorized by 6208(a)(2) and lease fees related to network equipment and infrastructure authorized by 6208(a)(3), which are discussed separately in the sections below. Thus, FirstNet initially concludes that each of the fees authorized by the Act may be assessed individually, and cumulatively as applicable, and we seek comments on this preliminary conclusion, and on whether FirstNet has authority to impose fees under other authorities.

#### i. Network User Fees

As previously discussed, Section 6208(a)(1) of the Act authorizes FirstNet to assess and collect a network user or subscription fee from each entity, including public safety entities and secondary users, that seeks access to or use of the NPSBN.<sup>83</sup> Thus, the Act contemplates that a network user fee could be collected from, at minimum, a public safety user or a secondary user.

As previously discussed in this *Notice*, however, use of the term “including” rather than “consisting” when describing the scope of entities that may be charged a network user fee indicates that this group is not limited to only public safety entities or secondary users, but could potentially include other entities. Thus, we preliminarily conclude that FirstNet may charge a user fee to any eligible customer, including secondary users who may have already entered into a covered leasing agreement with FirstNet, and seek comments on this preliminary interpretation. In addition, we seek comments on the difference between the terms “access to” and “use of” the NPSBN in this section, including for example, whether the term “access to” would include access to databases without use of other network infrastructure.

#### ii. State Core Network User Fees

Section 6302(f) requires that a State choosing to build its own radio access network rather than participating in the FirstNet proposed network for that State, must pay any user fees associated with state use of elements of the core network.<sup>84</sup> The Act states that this fee applies specifically to the use of the core network by an opt-out State, and therefore we preliminarily conclude that it is separate and distinct from any other fees authorized by the Act. We seek comments on this preliminary conclusion.

#### 2. Lease Fees Related to Network Capacity and Covered Leasing Agreements

In addition to user fees, FirstNet is able to charge fees for secondary use of network capacity. Section 6208(a)(2) provides for “lease fees” resulting from a public-private arrangement between FirstNet and a secondary user, which permits access to network capacity on a secondary basis for non-public safety services, including through “spectrum allocated to such” secondary user.<sup>85</sup> This public-private arrangement is termed a covered leasing agreement (“CLA”) under the Act.

With regard to the specific definition of a CLA, we first note that the Act contemplates a “public-private arrangement,” and thus preliminarily conclude that the arrangement must be between FirstNet and a “private” entity, with that entity being the “secondary user” provided in the preamble to Section 6208(a)(2)(B).<sup>86</sup>

The “arrangement” described in Section 6208(a)(2)(B) is one “to construct, manage, and operate the [NSPBN].”<sup>87</sup> The provision does not specify whether either party must perform all or a part of the constructing, managing, and operating under the arrangement. We thus preliminarily conclude that the arrangement does not require a secondary user to “construct, manage, and operate” the entire FirstNet network, either from a coverage perspective or exclusively within a specific location. Thus, for example, one secondary user could construct, manage, and operate the FirstNet network in several states, and another secondary user could do so in several other states. Similarly, a secondary user could construct, manage, and operate a portion of the network in Akron, Ohio and at the same time FirstNet or other secondary users could be constructing, managing, and operating elements of the network in Akron in conjunction with the first secondary user. And thus, we preliminarily conclude that it is theoretically possible for multiple CLA lessees to coexist and utilize FirstNet spectrum in a particular geographic area.

Therefore, FirstNet’s preliminary conclusion is that there is no minimum amount, other than a *de minimis* amount, of constructing, managing, and operating that a CLA lessee must do in order to satisfy the definition. We believe this interpretation provides us with the ability to leverage our excess network capacity to the maximum extent the market will bear, ultimately benefitting public safety by helping us achieve additional efficiencies of scale and increasing revenues for further investment in the network. Any alternative interpretation requiring more than this would artificially constrain the potential pool of purchasers of excess capacity, such as to those who could partner with FirstNet only on a national basis, potentially constraining additional funding. We also preliminarily conclude that if the highest value is created by leveraging a partner on a national basis, this portion of the definition of CLA would not constrain FirstNet in entering into such an arrangement. We seek comments on these preliminary conclusions, including on whether a secondary user is required to even perform a *de minimis* amount of constructing, managing, and operating, as discussed above, beyond paying lease fees.

For the same reasons as stated above, we preliminarily conclude that a secondary user is not required to

<sup>80</sup> 47 U.S.C. 1428(a).

<sup>81</sup> *Id.*

<sup>82</sup> See 47 U.S.C. 1428(a); See also 47 U.S.C. 1442(f).

<sup>83</sup> 47 U.S.C. 1428(a)(1).

<sup>84</sup> 47 U.S.C. 1442(f).

<sup>85</sup> See 47 U.S.C. 1428(a)(2).

<sup>86</sup> 47 U.S.C. 1428(a)(2)(B).

<sup>87</sup> *Id.*

perform all three functions of constructing, managing, and operating a portion of the network, so long as one of the three is performed as part of the CLA. For example, a secondary user could agree to construct a radio access network in a particular location, and FirstNet could manage and operate that radio access network, assuming the other elements of the definition were satisfied.

We preliminarily conclude that use of the word “permit” in the definition of CLA indicates that an absolute requirement, such as through use of the term “requires,” is not contemplated. Thus, we preliminarily conclude that the technical architecture of a CLA would, at a minimum, have to allow use as described in Section 6208(a)(2)(B)(i) and (B)(ii). For example, with respect to (B)(ii) and as discussed more fully below, local traffic of a secondary user not requiring long-haul transmission could be communicated locally without satisfying (B)(ii), and without violating the definition of a CLA overall.

We also preliminarily conclude that the reference to “network capacity” in item (B)(i) of the definition of CLA is a generic statement referring to the combination of spectrum and network elements, as defined by the Act and discussed in this *Notice*, which could include the core network as well as the radio access network of either FirstNet alone or that of the secondary user under a CLA whereby the core and radio access network are used for serving both FirstNet public safety entities and the secondary user’s commercial customers.

Section 6208(a)(2)(B)(i) permits private entities that enter into CLAs with FirstNet access to such network capacity “on a secondary basis for non-public safety services.”<sup>88</sup> FirstNet interprets the term “secondary basis” to mean that the network capacity will be available to the secondary user unless it is needed for public safety services in accordance with the discussion of “secondary users” in this *Notice*. FirstNet seeks comments on this preliminary conclusion.

With respect to item (B)(ii) of the definition, we preliminarily conclude that all or a portion of the FirstNet Band 14 spectrum can be allocated for secondary use by a CLA lessee because the phrase, “the spectrum allocated to such entity” does not appear to require any minimum amount of such spectrum to be allocated. This interpretation would provide FirstNet with maximum flexibility in marketing excess network capacity.

Further, according to item (B)(ii), the CLA lessee can use that spectrum to originate or terminate to or from a “long-haul” network utilized by the CLA lessee. Because the term “long-haul” network has less meaning in the context of information services, rather than regulated voice services, we preliminarily conclude that, without limitation, a “long-haul” network could be one that traverses traditional Local Access Transport Area boundaries, but other interpretations and more expansive boundaries are possible. We seek comments on this preliminary conclusion.

We also preliminarily conclude that the reference to “dark fiber” cannot literally be interpreted as such because, once transporting traffic, the fiber would no longer be “dark.” Thus, FirstNet preliminarily concludes that the reference should be interpreted to allow the covered lessee to transport such traffic on otherwise previously dark fiber facilities. We seek comments on this preliminary conclusion, and on any alternative interpretations requiring the use of dark fiber of a long network, or previously unused capacity on lit fiber of a long haul network.

Given the complexity of this provision, we seek comments on both our specific preliminary conclusions above as well as the provision generally, including any alternative interpretations, the potential policy goals underlying the provision’s inclusion in the Act, the ramifications of alternative interpretations to the value of CLAs, and any technical impediments to implementing the above preliminary or alternative interpretations.

### 3. Network Equipment and Infrastructure Fee

Section 6208(a)(3) provides for lease fees related to network equipment and infrastructure.<sup>89</sup> As contrasted with lease fees related to network capacity in subsection (a)(2), or user fees in subsection (a)(1), FirstNet interprets this provision as being limited to the imposition of a fee for the use of static or isolated equipment or infrastructure, such as antennas or towers, rather than for use of FirstNet spectrum or access to network capacity. We seek comments on where use under subsection (a)(1) or (a)(2) would end, and use under (a)(3) would begin for equipment such as antennas.

Section 6208(a)(3) defines the scope of eligible equipment or infrastructure for which FirstNet may charge a fee to include “any equipment or

infrastructure, including antennas or towers, constructed or otherwise owned by [FirstNet] resulting from a public-private partnership arrangement to construct, manage, and operate the [NPSBN].”<sup>90</sup> We interpret “constructed or otherwise owned by [FirstNet]” as requiring that FirstNet ordered or required the construction of such equipment or infrastructure, paid for such construction, or simply owns such equipment or infrastructure. We seek comments on the above preliminary conclusions and whether this provision would also include equipment or infrastructure that FirstNet does not own but, through a contract, such as one resulting from a public-private partnership arrangement to construct, manage, and operate the NPSBN, has rights to sublease access to, or use of, such equipment or infrastructure.

### III. Ex Parte Communications

Any non-public oral presentation to FirstNet regarding the substance of this *Notice* will be considered an *ex parte* presentation, and the substance of the meeting will be placed on the public record and become part of this docket. No later than two (2) business days after an oral presentation or meeting, an interested party must submit a memorandum to FirstNet summarizing the substance of the communication. Any written presentation provided in support of the oral communication or meeting will also be placed on the public record and become part of this docket. Such *ex parte* communications must be submitted to this docket as provided in the **ADDRESSES** section above and clearly labeled as an *ex parte* presentation. Federal entities are not subject to these procedures.

Dated: September 17, 2014.

**Stuart Kupinsky,**  
Chief Counsel, First Responder Network Authority.

[FR Doc. 2014–22536 Filed 9–23–14; 8:45 am]

**BILLING CODE 3510–60–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Strategic Environmental Research and Development Program, Scientific Advisory Board; Notice of Federal Advisory Committee Meeting

**AGENCY:** Department of Defense.

**ACTION:** Notice.

**SUMMARY:** The Department of Defense is publishing this notice to announce an

<sup>88</sup> 47 U.S.C. 1428(a)(2)(B)(i).

<sup>89</sup> 47 U.S.C. 1428(a)(3).

<sup>90</sup> 47 U.S.C. 1428(a)(3) (emphasis added).



# Exhibit F

**July 13, 2014 Executive Committee Meeting Minutes**



## FloridaNet Executive Committee Meeting

**6/13/14**

The FloridaNet Executive Committee had a conference call on June 13, 2014. The following members and guests participated:

Name	Affiliation
<b>EXECUTIVE COMMITTEE</b>	
Terry Rhodes, Chair	FL Department of Highway Safety & Motor Vehicles
Mark Perez, Homeland Security Advisor	FL Department of Law Enforcement
Bobby Brown, Tribal Representative	Seminole Tribe of Florida
David Brand	Florida Sheriffs Association
Mike McHargue	FL Department of Health
Greg Holcomb, Technical Committee Chair	Lake County Public Safety
Sherri Martin	FL Department of Economic Opportunity
Mike Sole, Private Sector	Florida Power & Light
Colin Denney, Private Sector	Verizon Wireless
Kevin Herndon	Florida Fire Chiefs Association
Ed Peters	FL Department of Management Services
<b>OTHERS</b>	
Donna Uzzell	FL Department of Law Enforcement
Brett Boston	FloridaNet
Larry Gowen, FloridaNet Program Manager	FL Department of Highway Safety & Motor Vehicles
Lee Ann Payne, Deputy Director	Florida Sheriffs Association
Dean Fox	FL Department of Highway Safety & Motor Vehicles
Henry?	Nicely, NY

Called to order at 9:30am.

The following topics were discussed:

### **1. EMS Representative**

Greg Rubin nominated as the EMS representative.

Discussion: Greg Holcomb commented they definitely need that on the technical side and made a motion to approve. Kevin Herndon seconded. Thanks to the Fire Chiefs for the nomination.

Executive Committee roll call vote: Unanimous vote to approve motion.

Mike McHargue discussed increasing representatives from medical and health community that were selected based on their leadership/visibility and ability to communicate with folks across Florida. The



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following four were selected (copy of list sent to Kathy Cruce via email) and were more than willing to serve in whatever capacity the Executive Board decides:

Dr. Joe Nelson – Florida EMS Advisor

John Wilgis – Preparedness Coordinator, Florida Hospital Association

Robin Blyer – Executive Director, Florida Health Care Association

(As an alternate to Robin) April Henkel – Preparedness Project Manager, Florida Health Care Association

Dr. Peter Pappas –Trauma surgeon, Holmes Regional Medical Center, SparrowNet (telemedicine project)

Motion was made that these representatives be invited to participate in the discussion but will not vote. They will be represented by Mike McHargue, as the one Medical and Health community vote. They will have ex officio membership status and will be able to tap into the communities and help communicate FloridaNet’s status. They will be able to scour community and find necessary technical help.

Mike Sole seconded to go to discussion. How many members will be added as ex officio? Four representing four associations and one major initiative (SparrowNet). Mike McHargue’s responsibility to coordinate with them. Mike Sole wondering if the Board had any concern that having these representatives would turn a political issue, particularly with Telemedicine and Dr. Pappas.

Mike McHargue commented that Dr. Pappas is trauma surgeon and enthusiastic first responder and is not political, as far as he knows, but we can revisit this issue later, if necessary.

Greg Holcomb commented that he has seen presentations done by Dr. Pappas and in his opinion he is the right person with the right mind set to share data, further pointing out that with most things, everything becomes political.

Mike Sole concerned over FloridaNet becoming political and wanted to voice word of caution. Mike McHargue will call it out if there’s even a hint of FloridaNet becoming too political.

Brett Boston said, for the record, there was a motion and a discussion that this is about long term connectivity and not venturing into Telemedicine. All agree that this should be in the minutes.

Executive Committee roll call vote: Unanimous vote to approve motion.

## **2. Consultation update**

Larry Gowen gave overview of the consultation process. NTIA and FirstNet are still evolving. It was originally thought that this was going to be a singular event, but was informed that this would be an ongoing process. NTIA and FirstNet will determine when we have met the requirements and can move into Phase 2.



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Included in the package is the list of required items. **Governance** is provided and a list of proposed **Attendees** for the consultation meeting. This list includes the Executive Committee members. It is recommended that the members bring one technical or subject matter expert of their choosing to the consultation.

**Scheduling** is provided with an aggressive timeline. We are anxious to move forward with scheduling of the FirstNet consultation meeting. FirstNet is accepting packages through June 30, 2014, and will have meetings set up from July through November. FirstNet has informed us that there will only be 25 meetings scheduled for the rest of the year, so we would like to be a part of that and up in front. Other states also trying to be a part of this year's schedule are Washington, Oregon, and Maryland and have already submitted their packages.

Since the package is large and too big to send electronically, it is on the FloridaNet.gov website. Under the References tab, scroll down to Documents, and it will be listed as *FirstNet Consultation Package – DRAFT* dated 6/11/2014.

The **Wireless Contract Vehicles** section was a surprise since they are not moving forward with data collection until Phase 2 of the SLIGP. **Education and Outreach** provided. There are no **Barriers** that are known, but this should be something that FirstNet should identify moving forward.

Greg Holcomb questioned if there was any way of requesting/reviewing other state submittal packages. Larry Gowen was unaware but would look into contacting other states and FirstNet, as well as provide our consultation package online for others to view.

Brett Boston mentioned that in talks with Region IV, all states agreed that they would share their consultation packages when they were available.

Opened up for discussions/questions:

#### Attendees

Greg Holcomb asked if they were restricted to bringing just one technical/subject matter person per Executive Committee member. Most agreed that “the more the merrier” approach was best. Greg said there were seven (7) regional chairs that represent various technical areas and it would benefit the team if they could attend. It was agreed that they will be added to the list.

Larry said if anyone else thinks there should be more representatives, please let him know. Intent is to have consultation meeting in Tallahassee, FL. Travel arrangements can be made for Executive Committee and members to attend as part of the SLIGP.

#### Scheduling

As for scheduling, the four dates that are being turned in are flexible, but it was necessary to give FirstNet something to work with. No one is sure if any of these dates will work, but had to make an



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effort. Understandably, not everyone might be able to attend. Questioned members if there were any concerns or any other suggested dates. There will be a Conference Bridge and WebEx set up for those who cannot attend.

Ed Peters and Mark Perez both said that there would be conflicts on the July 22-23 suggested date.

Members are asked to send over possible dates that would work for the consultation after the meeting.

In order to prepare for the Consultation meeting, included in the SPOC consultation package, there is a list of suggested topics of discussion (page 4-5). Members are asked to review.

### **3. RFI Status Update**

Larry Gowen says it's an evolving process to work with NTIA and FirstNet. We told them we are doing the RFI in an attempt to make the states smarter, but was told we cannot use SLIGP funds to review RFI.

Four major universities in Florida have been contacted, UF, UCF, USF, and FT to see if they would be interested in reviewing the RFIs, that was originally going to be done by GTRI, but none have responded.

Concern expressed over appropriations. Who's going to pay for it if it's not in the grant? If we can't pay for it, then are we at a stopping point?

Brett Boston said that it's always been on the table but at the last moment, NTIA has said we could not use the grant money to review the RFI. But there may be some confusion, so it needs to be cleared up and it's not off the table just yet. If it turns out that this is final that we cannot use grant money, then we will have a Public-Private meeting to assess where we go from there.

### **4. Education and Outreach**

Larry Gowen mentioned the website and that it is constantly being updated by Amy Serles, with the latest relevant and meaningful news concerning FirstNet.

We are in the process of producing a YouTube video educating the public safety community about FirstNet and FloridaNet. Amy Serles will be reaching out to stakeholders throughout the state to participate in the video so it can be relatable.

Brochures are also being produced for distribution. Kevin Herndon has an upcoming conference in August that brochures will be provided. Members asked to please let us know of any other upcoming so we can provide them with brochures as well.

Donna Uzzell asked if the FloridaNet team would be willing to come down to the upcoming CJIS symposium in St. Petersburg in July (2<sup>nd</sup> week) and set up a booth to pass along information about FloridaNet. Larry said we would and said to go to the website and click on 'Contact Us' after the meeting to give more information about the symposium.



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Terry Rhodes asked David Brand if he would want any brochures for upcoming conferences and he said he would hand carry them down. Also, need to contact Amy Mercer to pass along brochures.

## **5. Open Discussion**

PSCR Conference in Colorado Review

Rob Fortner did a summary of the event and it's posted on FloridaNet.gov under Documents for review.

Larry Gowen gave two big takeaways from the conference:

1. Feds working with very bright people to work on the technology
2. We've got to figure out our coverage mapping tool and local control. The last event at the conference was the most involved/engaged event and concerned local control. Question to Executive Committee: What does local control mean to us?

Members encouraged to contact us through the website if there's any need for further questions or follow up.

Meeting adjourned 10:22am.