

**Before the
DEPARTMENT OF COMMERCE
NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION
Washington, D.C. 20230**

In the Matter of the)

State Alternative Plan Program)

) Docket No. 160706588-6588-01
)

COMMENT'S OF FAIRFAX COUNTY, VIRGINIA

Fairfax County, Virginia (“Fairfax”) welcomes the opportunity to respond to the National Telecommunications and Information Administration (“NTIA”), U.S. Department of Commerce’s Notice and Request for Comment (“Notice”)¹ regarding the State Alternative Plan Program that will impact the future deployment of the national public safety broadband network (“NPSBN”) should a State to opt-out and construct its own radio access network (“RAN”).

Background

Fairfax County is the largest jurisdiction by population in the Commonwealth of Virginia, with 1,125,385 citizens living within its 406 square miles. In this footprint, public safety services are provided by 7 local law enforcement agencies, the Fairfax County Fire Department and numerous state and federal agencies. Fairfax is an integral partner in the National Capital Region with 19 other local jurisdictions across two states and the District of Columbia for interoperable communications which is a high priority, particularly supporting Homeland Security, intelligence, incident response and recovery across over fifteen emergency

¹ See Department of Commerce, NTIA, Docket No. 160706588-99-01, *State Alternative Plan Program (SAPP) and the First Responder Network Authority Nationwide Public Safety Broadband Network*, Fed. Reg. Vol. 81, No. 138, 46907 (July 19, 2016)(*Notice*).

response functions. The NCR has made exceptional headway in both operational and technical aspects of interoperable communications and data sharing over the past ten years in a successful environment of governance, collaboration and technical implementation. Interoperable communications which is critical. Secure broadband wireless dedicated for public safety functions remains the missing platform, while use of wireless devices is exponentially expanding.

We are committed to the public safety community in Fairfax to have dependable, reliable, and effective communications that is critical to our first responders. The three fundamental drivers that justify the NPSBN are: to improve data throughput, to provide network availability, and to improve network reliability. Underlying these drivers for a broadband network is that the network must be cost effective, so that it can be shared by first responders, public services, transportation, infrastructure providers and other critical agencies, thus the intersection of a private broadband wireless network that is flexible and offers alternative paths to implementation is essential and fundamental.

Fairfax has been in constant collaboration with the Commonwealth of Virginia in its planning for its PSBN, and Fairfax representatives have been appointed to a delegation in support of the state in its consultations and outreach with FirstNet. Thus, our comments on rules that a “qualified state may enter into a spectrum capacity lease with the First Responder Network Authority (“FirstNet”) and receive a grant to construct its own statewide RAN should it opt to do so as permitted under the Act.”

I. A State May Construct, Operate, Maintain, and Improve its Own RAN

“The State shall submit an alternative plan for the construction, maintenance, operation, and improvements of the radio access network within the State to the Commission.”² The plan must demonstrate that the State will meet the minimum technical interoperability requirements developed by the Public Safety Interoperability Board under section 1423,³ and be interoperable with the FirstNet NPSBN. The Federal Communications Commission (“Commission”) will either approve or disapprove the alternative state plan.⁴

Under this tenant that the Act requires the approval of a state opt-out RAN interoperability plan by the Commission, there must be a timely obligation to establish the criteria for a state to construct, maintain, operate, and improve its RAN, and that the Commission provide final interoperability requirements to the states three (3) months before the FirstNet draft state plans are simultaneously distributed across the country. (*See* Exhibit A for suggested timeline.) This will allow states time to confer with their local jurisdictions in order to make an informed and timely decision on whether to opt-in or out of the NPSBN, and allow better timing for locals to calibrate their plans for deployment of wireless capabilities.

If the alternative state plan is approved by the Commission, the state may apply to NTIA for a grant to build their own RAN.⁵

The state must demonstrate: (1) That it has the technical capabilities to operate and the funding to support its RAN; (2) that it has the ability to maintain ongoing interoperability with the NPSBN; (3) that it has the ability to complete the project within specified comparable timelines specific to the state; (4) the cost-effectiveness of the state alternative plan submitted to the FCC; and, (5) comparable security, coverage, and

² Notice at 46908; 47 U.S.C. §1442(e).

³ 47 U.S.C. §1423.

⁴ *See generally* 47 U.S.C. §1442(e).

⁵ 47 U.S.C. 1442(C)(iii)(I).

quality of service to that of the NPSBN.⁶

Likewise, the RAN Construction Grant criteria must be delivered three months before the FirstNet draft state plans. (*See Exhibit A for suggested timeline.*) This will provide the states in concert with their local jurisdictions the time to develop an acceptable funding plan should they seek to opt-out of the NPSBN. In addition, we need to have all the costs and operational considerations answered in order to make an informed opt-in or out decision that only NTIA and FirstNet can provide.

We are also struck by the shorter amount of time a state has under the Act to put out an RFP, secure a corporate partner to build the network, and submit a plan to the Commission, all within 180 days when FirstNet needed a year for this same process. (*See Exhibit A for suggested timeline.*) further supporting that the Commission and NTIA must provide the aforementioned criteria three months before the draft state plans are delivered by FirstNet.

II. State's Options on RAN Construction, Operation, Maintenance and Improvements

Under the Act, a Governor is required to make an opt-in or out decision based on a state plan, rather than on an actual RFP that would reflect the true costs of a state deployment. Once the Governor decides to opt-out under the Act, the state then must complete a procurement process for the state RAN within 180 days. We suggest, however, that FirstNet/NTIA provide interim approval of qualified state opt-out RAN plans if the state has not completed its procurement within the 180 day plan development period, as long as the overall plans meets the delivery requirements outlined in FirstNet's State opt-in plan.

⁶ Notice at 46908; 47 U.S.C. §1442(e)(3)(C-D).

III. State Demonstrations and NTIA Transparency

We understand that NTIA must evaluate a state's demonstrations of specific criteria set forth in the Act to grant funding of the state RAN. We hope that the grant funding and approval process by NTIA will be transparent. Transparency by NTIA is crucial and will ensure an equal playing field amongst the states who seek to opt-out of the NPSBN. It will also ensure that the same standards, requirements, parameters, and conditions regarding approval for every state are used by NTIA.

IV. Grant Authority to Enter Into Spectrum Capacity Lease and RAN Construction Funding

NTIA's intention to evaluate a state's request for Lease Authority, or its request for Lease Authority plus an optional RAN Construction Grant, as a single grant application requires them to release the forthcoming FFO Notice providing specific details on the application and grant program requirements simultaneously with the draft state plans. (*See Exhibit A for suggested timeline.*) This will allow states time to develop a comprehensive final state plan with their local jurisdictions and thru their negotiations with FirstNet. The criteria also must include, but not limited to, the anticipated cost of the spectrum lease (if any) and FirstNet core costs within a State.

A. Technical Capabilities to Operate the State RAN

Under the Act, in order to receive a RAN Construction Grant “a state must demonstrate: (1) That it can operate the state RAN on a technical level; and (2) that it has the financial resources to do so.”⁷ We agree that “all components of the NPSBN, including the core network and the RAN, must be operated under common technical network policies.”⁸ As such, we contend that the approval by the Commission of its interoperability alternative state plan satisfies the need for the common technical network policies, and as such, there is no need for NTIA to require a duplicative and unneeded demonstration for grant funding. If FirstNet’s common technical network policies are deemed not to be duplicative, they must to be transparent and delivered three months prior to the draft state plans.

NTIA also seeks required demonstration that the state’s “RAN and other network attributes will be interoperable with the NPSBN on an “ongoing” basis.”⁹ We contend that this is a duplicative requirement under the Act. Even NTIA admits that “consistent with the interoperability demonstration a state must make to the FCC in its state alternative plan.”¹⁰ We find this requirement to be burdensome and unnecessary. Fairfax recommends that NTIA streamline the process, instead of making it administratively burdensome and complicated for states so that first responders can have the long awaited capabilities broadband and the intention of FirstNet will provide.

⁷ *Id.* at 46911.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

V. Conclusion

Fairfax urges NTIA to adopt rules that are consistent with our comments filed herein when considering state demonstrations of alternative grant funding plans and FirstNet spectrum leasing rights under the Act.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "George Coulter", is written over a horizontal line.

George Coulter, Deputy Director

for Public Safety Infrastructure Initiatives

Department of Information Technology

Fairfax County, Virginia

Exhibit A State Alternative Plan Timeline

