

Before the
DEPARTMENT OF COMMERCE
Washington, DC 20230

In the Matter of)
)
Development of the State and Local) Docket No. 120509050-1050-01
Implementation Grant Program for the)
Nationwide Public Safety Broadband Network)

To: The Secretary

COMMENTS OF AMERICAN TOWER CORPORATION

American Tower Corporation (“American Tower”) submits these comments in response to the Department of Commerce’s Request for Information¹ relating to the State and Local Implementation Grant Program (“Grant Program”) for the Nationwide Public Safety Broadband Network (“NPSBN”).² American Tower welcomes this opportunity to comment on activities that should be reimbursable under the Grant Program and to describe resources available to facilitate implementation of the NPSBN, in particular resources regarding existing infrastructure.³

INTRODUCTION

American Tower, one of the largest tower companies in the United States, has a unique perspective on the challenges faced by the First Responder Network Authority (“FirstNet”), which was established by the Act “to take all actions necessary to ensure the design,

¹ *Request for Comments on Development of the State and Local Implementation Grant Program for the Nationwide Public Safety Broadband Network*, 77 Fed. Reg. 28857 (May 16, 2012) (“*RFP*”).

² The National Telecommunications and Information Administration (“NTIA”) is responsible for implementing the Grant Program pursuant to the Middle Class Tax Relief and Job Creation Act of 2012 (“Act”). Pub. L. No. 112-96, 126 Stat. 156 (2012).

³ American Tower is also a member of PCIA – The Wireless Infrastructure Association and the DAS Forum (collectively referred to herein as “PCIA”), who is also filing comments in this proceeding. American Tower supports PCIA’s comments.

construction, and operation” of the NPSBN.⁴ Our perspective is the result of two factors. First, American Tower has a domestic nation-wide portfolio of over 21,000 wireless and broadcast towers, indoor and outdoor Distributed Antenna Systems (“DAS”), and managed rooftop locations across the United States. Second, American Tower plays a key role in designing, planning, and implementing its wireless carrier customers’ network build-out by offering site-related services, including site acquisition, zoning and permitting services, and structural analysis services.

While American Tower has established strong relationships with commercial wireless carriers, it also has forged partnerships with various government and public safety entities to facilitate the build-out and improvement of their radio networks. Our experience and asset portfolio would be an invaluable resource for FirstNet to consider as it begins to design the NPSBN. American Tower would be pleased to provide assistance to NTIA and FirstNet with regard to the design and deployment of the NPSBN.

American Tower commends NTIA for seeking public comment on ways to maximize the information available to FirstNet regarding existing infrastructure available from regional, state, local, and tribal authorities (“state and local authorities”), as well as requesting input concerning resources available to compile this information. As discussed below, NTIA and FirstNet should take advantage of the resources available from third parties, such as tower companies, regarding existing infrastructure that could provide a cost-effective collocation platform for NPSBN facilities. Further, NTIA should ensure that activities undertaken by private third-parties, such as

⁴ *RFI*, 77 Fed. Reg. at 28858.

tower companies, to support state and local government efforts regarding public safety broadband implementation, are fully reimbursable under the Grant Program.

DISCUSSION

I. ALL EXISTING INFRASTRUCTURE ASSETS SHOULD BE CONSIDERED IN THE EVALUATION AND PLANNING OF THE NPSBN

The Act requires FirstNet to leverage existing “infrastructure” – whether commercial, Federal, State, tribal, or local – in designing the NPSBN.⁵ Notably, this requirement is not limited to existing towers but more broadly encompasses wireless infrastructure, which would include existing buildings and land holdings that could be used for siting purposes. As noted by the Federal Communications Commission (“FCC”), “[w]ireless equipment, such as antennas, can often be attached to existing infrastructure such as utility poles, water towers, billboards, and buildings, as well as to communications towers.”⁶ The *RFI* seeks comment on, among other things, the best way to gather information regarding this existing infrastructure from states and localities to facilitate the design of the NPSBN.⁷

Fortunately, there is a large amount of existing infrastructure spread throughout the country that could be used to host NPSBN facilities. As of February 1, 2012, there were nearly 100,000 towers registered with the FCC.⁸ Many of these towers may be capable of supporting

⁵ Act, § 6206(c)(3).

⁶ See generally Nationwide Programmatic Agreement for the Collocation of Wireless Antennas, 16 FCC Rcd 5574 (WTB 2001) (Collocation Agreement) and Fact Sheet (Jan. 10, 2002).

⁷ *RFI*, 77 Fed. Reg. at 28858-59.

⁸ FCC, Final Programmatic Environmental Assessment for the Antenna Structure Registration Programs, at 4-2 § 4.2.2 (Mar. 13, 2012), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-312921A1.pdf. (“As of February 1, 2012, there were 96,039 towers (*i.e.*, structures coded as ‘Towers’ or ‘Tower Arrays’) identified in the FCC database as having a construction date”).

the antennas and transmission equipment that would form the NPSBN. There also are numerous buildings, non-tower structures, and building lots that could accommodate new wireless equipment or towers.

A. Substantial Benefits Result from Collocation⁹

Reliance on existing infrastructure will result in a more expeditious build-out, significant cost savings, and minimization of environmental impact. The benefits of collocation have been well documented. The FCC, which has vigorously promoted collocation for decades,¹⁰ has found:

Co-locating base station equipment on an existing structure is often the most efficient and economical solution for existing and new wireless service providers that need new cell sites. . . . Due to the high cost to construct new towers, and the often considerable delay to obtain approvals from state and local authorities, wireless service providers will typically look first for existing towers or other suitable structures for new cell sites.¹¹

American Tower's experience confirms the FCC's findings. As a general rule, collocations can gain the necessary local and federal regulatory approvals far faster than a new build. The shortened time period for collocations is reflected in the FCC's determination that a reasonable time for localities to act on collocations is 90 days, whereas the reasonable time for

⁹ Collocation refers to the addition of new transmitters and related equipment to an existing site. Many towers and large structures can accommodate numerous transmitters and, therefore, it is possible for several licensees to co-exist on a single structure.

¹⁰ On May 1, 2012, the FCC's Wireless Telecommunications Bureau held a Collocation Workshop to discuss the benefits and promote collocation. *See Promoting Mobile Broadband in your Community by Collocating Wireless Antennas on Communications Towers and Other Structures*, DA 12-584, *Public Notice* (Apr. 1, 2012).

¹¹ *Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 10-133, *Fifteenth Report*, 26 FCC Rcd 9664, 9843 (2011).

processing applications for new towers and non-collocations is 150 days.¹² Collocations can be processed more quickly because, among other things, “collocation applications are easier to process than other types of applications as they do not implicate the effects upon the community that may result from new construction.”¹³ Further, the 2001 Nationwide Collocation Agreement,¹⁴ which governs the Section 106 historic review process,¹⁵ specifically exempts many collocations from the Section 106 process. The collocation process should be further expedited by the Act which establishes, for the first time, a “collocation by right” principle.¹⁶

As a general rule, collocations on existing structures – whether commercial or non-commercial – are far more economical than building new towers. Unlike a “new build,” collocations avoid the extensive capital outlay necessary to build a new tower.¹⁷ In addition, collocation on commercial structures may provide unique additional cost savings. For example, because the NPSBN will utilize a technology – LTE – commonly used by commercial operators,

¹² *Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance*, WT Docket No. 08-165, *Declaratory Ruling*, 24 FCC Rcd 13994, 14012 (2009).

¹³ *Id.*

¹⁴ Nationwide Programmatic Agreement for the Collocation of Wireless Antennas (Mar. 16, 2001).

¹⁵ See National Historic Preservation Act (“NHPA”), 16 U.S.C. §§ 470 *et seq.*

¹⁶ Act, § 6409.

¹⁷ A new tower is an expensive proposition when compared to collocation. A new tower involves either buying or leasing land, acquiring all necessary regulatory approvals, buying the metal tower and all related equipment, installing the facilities, and maintaining the facilities.

it may be possible to share LTE eNodeBs, power system batteries, and other elements at a tower site.¹⁸

Moreover, collocating NPSBN facilities on existing structures will significantly reduce, in two fundamental aspects, the environmental impact associated with building the network. First, every collocation on an existing structure obviates the need for a new tower to be manufactured and installed. Fewer towers mean that less steel needs to be manufactured and transported to the site, fewer acres need to be cleared for pad installation, and fewer crews with construction cranes and machinery have to be utilized.¹⁹ Second, from the perspective of historic preservation, a collocation on an existing tower has far less visual impact than does a new tower. The FCC exempts collocations from several environmental requirements because “collocations are unlikely to have environmental effects.”²⁰ Due to the limited visual impact and minimal direct environmental impacts, many local jurisdictions generally prefer collocation over building new towers.

B. Design Resources Are Available from a Variety of Sources for the NPSBN

In evaluating the availability of existing infrastructure for use by the NPSBN, NTIA and FirstNet should not overlook the substantial public resources currently available. As the *RFI* highlights, the U.S. Department of Homeland Security’s Office of Emergency Communications (“OEC”) offers several resources capable of providing valuable information regarding

¹⁸ See *Tower Companies Eye Public Safety, Utilities in Broadband Era*, Radio Resources Magazine (Sandra Wendelken, ed., Oct. 19, 2011) (quoting Louis Olsen, Vice President, Technology, American Tower) available at <http://www.radioresourcemag.com/onlyonline.cfm?OnlyOnlineID=275>.

¹⁹ Collocations may limit exhaust fumes because a single generator can serve multiple facilities.

²⁰ *National Environmental Policy Act Compliance for Proposed Tower Registrations*, WT Docket No. 08-61, *Order on Remand*, 26 FCC Rcd 16700, 16708 (2011).

infrastructure that can be used to assist in the design of the NPSBN.²¹ The reliability of these tools is unclear. For example, it appears that the Frequency Mapping Tool is incomplete and does not provide information for all commercial carriers.

Although the resources available on the OEC website are useful, numerous other resources are available that can be used to verify and supplement that information. Many of these private sector tools and resources are available at little or no cost to NTIA and FirstNet. For example, tower companies maintain electronic tower inventories that can be used by FirstNet as part of its design process. American Tower's site locator alone provides information regarding tens of thousands of sites throughout the U.S.²² Many of these sites may be able to accommodate transmitters for use by the NPSBN. Other tower companies maintain similar databases.

C. Any Review of Existing Infrastructure Should Include Non-Tower Assets

It is essential from both a legal standpoint and for planning purposes that the review of existing infrastructure not be limited to existing towers. Instead, the review should encompass additional resources, such as building rooftops (that readily provide a platform for NPSBN facilities) and potential sites for building additional towers. Neglecting to include these resources as part of the NPSBN planning process would run afoul of the Act's mandate to review all existing infrastructure. In addition, it would deprive FirstNet of (i) essential design flexibility, (ii) an opportunity to expedite build-out, and (iii) a significant resource that could reduce the cost of the network. State and local jurisdictions should be encouraged to use these

²¹ *RFI*, 77 Fed. Reg. at 28859.

²² See <http://www.americantower.com/sitelocator/default.aspx>. There generally is no charge for access to this information and it can be provided in a variety of formats – Excel spreadsheet, map, *etc.* – depending upon the needs of FirstNet.

resources to form creative partnerships for the purpose of expediting the planning and build-out of the NPSBN.

II. ACTIVITIES UNDERTAKEN BY THIRD PARTIES TO SUPPORT STATE AND LOCAL GOVERNMENT BROADBAND IMPLEMENTATION EFFORTS SHOULD BE REIMBURSABLE UNDER THE GRANT PROGRAM

Section 6302 of the Act establishes a grant program to fund state and local activities necessary “to identify, plan, and implement the most efficient and effective way . . . to utilize and integrate the infrastructure, equipment, and other architecture associated with the nationwide public safety broadband network to satisfy the wireless communications and data services needs of that jurisdiction, including with regards to coverage, siting, and other needs.”²³ The *RFI* seeks comments on, among other things, the activities that should be funded by this Grant Program.²⁴

American Tower believes that the objectives of the Grant Program should be to obtain the information necessary for the design and deployment of the NPSBN as *quickly and economically as possible*. In the current fiscal environment, it may be difficult for many states and local authorities to compile detailed information regarding the resources available for FirstNet in a timely fashion without assistance. As the South Dakota Bureau of Information and Telecommunications noted:

The coordination with FirstNet and compilation of the requested data will involve a significant amount of time. Most state-level organizations are run at minimum staffing levels, so the potential for contracting this out or temporary personnel outside of regular budgets [should be covered by the Grant Program].²⁵

²³ Act, § 6206(b)(1)(B).

²⁴ *RFI*, 77 Fed. Reg. at 28859.

²⁵ Comments of the South Dakota Bureau of Information and Telecommunications at 1 (May 22, 2012), *available at* http://www.ntia.doc.gov/files/ntia/national_public_safety_broadband_public_comments.pdf.

NTIA thus should ensure that the parameters of the Grant Program permit reimbursement for all planning activities undertaken by third parties at the request of state and local jurisdictions to gather information for the implementation of the NPSBN. To avoid any ambiguity, NTIA should specifically state that data collection, facility and tower audits, and tower structural reviews conducted by third parties at the request of state and local jurisdictions are reimbursable under the Grant Program.

Prior experience with the Broadband Technology Opportunities Program (“BTOP”) demonstrates that such ambiguity, even when inadvertent, can stifle creativity and have a chilling effect on participation. Public safety entities eligible for BTOP grants were concerned about their ability to contract with tower and equipment vendors due to the perceived ambiguity of the BTOP regulations and the confusion this generated. For example, Section V.E.a of the BTOP Second Notice of Funds Availability (“Second NOFA”)²⁶ states that the costs of long-term leases of facilities required to provide broadband service, including indefeasible right-of-use (“IRU”) agreements, are reimbursable. The BTOP inadvertently created ambiguity, however, by making a series of statements that called into question whether third party activities could be classified as reimbursable operating expenses.²⁷ As a result, states shied away from entering into such arrangements.

²⁶ See Notice of Funds Availability and Solicitation of Applicants, 75 Fed. Reg. 3792, 3802 (Jan. 22, 2010). Section V.E.2.b. also lists ineligible costs for infrastructure projects and stated that grant funds may not be used to fund operating expenses of the applicant.

²⁷ BTOP Frequently Asked Questions, May 28, 2010, at page 14 of 33, Section IV.D., <http://www2.ntia.doc.gov/rules> (last visited June 11, 2012) (stating that an IRU is an eligible cost, but its classification as either a purchase, capital lease or operating lease may have implications for how much of the cost of the IRU may be funded during the up to three-year BTOP funding period). The FAQ also states that, to the extent that an IRU also provides for

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NTIA should ensure that its Grant Program avoids generating similar unintended confusion that has the potential to chill participation of parties that could provide valuable assistance to the states and localities. Equally important, NTIA could create a process that encourages creative arrangements between private entities and state and local jurisdictions that may expedite the funding the design, construction, and operation of the NPSBN.

CONCLUSION

American Tower wholeheartedly supports NTIA's efforts to maximize the information available regarding existing infrastructure, including resources that should be made available to regional, state, local, and tribal authorities to better enable them gather salient information. Further, by considering existing infrastructure for collocation of NPSBN facilities, NTIA and FirstNet will have the ability to expedite the design, construction, and deployment of the network, while at the same time decreasing costs and minimizing environmental impacts. To fully leverage existing resources, NTIA should ensure that activities undertaken by private third-parties – on behalf of state and local authorities – to compile information regarding existing infrastructure are fully reimbursable under the Grant Program.

Respectfully submitted,

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Operations and Maintenance (“O&M”) services, the O&M component is viewed as an operating expense of the applicant and is ineligible for cost recovery under BTOP.