

**Before the
UNITED STATES DEPARTMENT OF COMMERCE
NATIONAL TELECOMMUNICATIONS & INFORMATION ADMINISTRATION**

In the Matter of:)	
)	
)	
Development of the State and Local)	Docket No. 120509050-1050-01
Implementation Grant Program for the)	RIN 0660-XC001
Nationwide Public Safety Broadband Network)	
)	

COMMENTS OF MONTGOMERY COUNTY, MARYLAND

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Montgomery County MD

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COMMENTS OF MONTGOMERY COUNTY, MARYLAND

I. SUMMARY

Montgomery County, Maryland (“County”),¹ was pleased when President Obama signed the Middle Class Tax Relief and Job Creation Act of 2012² (“Act”) on February 22, 2012. The Act meets a number of long-standing priorities of the County to create a single, nationwide interoperable public safety broadband network that will, for the first time, allow police officers, fire fighters, emergency medical service professionals, and other public safety officials to communicate not only with each other, but across agencies, jurisdictions, and services. As a first step in establishing this national network, the National Telecommunications and Information Agency issued a Request for Information (“RFI”) asking for comments on nineteen (19)

¹ Montgomery County, Maryland, is situated just to the north of Washington, D.C. The County is 496 square miles with a population of 931,000 people. More information about the County’s demographics may be found

[here](#). A detailed picture of the County emergency response programs can be found in three reports that are available on the County’s web page (www.montgomerycountymd.gov). Rather than attach each of the full reports to these comments for record, the County provides the reader with links to these reports:

- Police http://www.montgomerycountymd.gov/content/exec/stat/pdfs/11_18_11_ppt.pdf.
- Fire http://www.montgomerycountymd.gov/content/exec/stat/pdfs/11_18_11_ppt.pdf
- County Communication Efforts During Storm Response
http://www.montgomerycountymd.gov/content/exec/stat/pdfs/4_23_10_ppt.pdf

² Public Law 112–96, 126 Stat. 156 (2012).

questions about the development, implementation, and operation of the state and local grant programs it will be managing.³ Montgomery County was also pleased that Congress in Section 6206(c)(2) of the Act directed the First Responder Network Authority (“FirstNet”) and NTIA to consult with local jurisdictions regarding the distribution and expenditure of funds that will be required to carry out network policies. The County therefore files these comments as NTIA/FirstNet commences its planning efforts in establishing the State and Local Implementation Grant Program (“SLIGP”) with the hope that the consultation process will be as productive as possible.

Montgomery County is also pleased to lend its voice to those that will be calling for NTIA to develop a phased approach for the distribution of grant funds. The initial round of funding should be made available as soon as feasible to:

1. Develop governance structures,
2. Conduct asset inventories of state, local, and tribal assets⁴,

³ Page 28857 of the Federal Register. (Vol. 77, No. 95) published on May 16, 2012.

⁴ These inventories should include for example:

- Assets
 - Available sites (public safety and other government owned, tower space, and useable building sites – all of which are available and suitable for sharing),
 - Government owned backhaul (fiber and microwave),
- Stakeholder
 - Agencies within the State, including up-to-date point of contact information,
 - First and secondary responders, along with appropriate governmental and non-governmental support personnel to determine the number and category of prospective users to help with the cost model for the State
- Needs
 - Survey the jurisdictions to assess the critical coverage/capacity/training and funding requirements,
 - Determine the appropriate areas of coverage for adequate public safety service to metro and rural areas.

3. Undertake outreach to public safety agencies at the state, local, and tribal level to assess coverage and usage needs, and
4. Develop information needed to participate actively and intelligently in the consultation process that Section 6206(c)(2)(A) of the Act requires FirstNet to undertake prior to commencing the RFP process.

II. BACKGROUND

In the Tax Relief and Job Creation Act of 2012, , Congress established FirstNet as an independent authority within the National Telecommunications and Information Agency (“NTIA”). FirstNet and NTIA were charged by Congress with ensuring the design, construction, and operation of a nationwide public safety broadband network (“PSBN”), based on a single, national network architecture.⁵ FirstNet is responsible for, at a minimum, ensuring nationwide standards for use and access of the network; issuing open, transparent, and competitive requests for proposals (RFPs) to build, operate and maintain the network; leveraging, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network; and overseeing contracts with non-federal entities to build, operate, and maintain the network.⁶

The Act also charges NTIA with establishing a grant program to assist State, regional, tribal, and local jurisdictions with identifying, planning, and implementing the most efficient and effective means to use and integrate the infrastructure, equipment, and other architecture associated with the nationwide PSBN to satisfy the wireless and data services needs of their jurisdictions.⁷ Montgomery County is pleased that NTIA recognized in the RFI that it must

⁵ *Id.* at § 6206(b) (1).

⁶ *Id.* at § 6302(a).

⁷ *Id.*

establish requirements for this program not later than six months after the date of enactment (i.e., August 22, 2012) and that the programmatic requirements for the State and Local Implementation grant program must include, at a minimum, a determination of the scope of eligible activities that will be funded, a definition of eligible costs, and a method to prioritize grants for activities that ensure coverage in rural as well as urban areas.⁸

III. THE CONSULTATION PROCESS

A. Local governments must be involved in the consultation process and be eligible for reimbursement for such efforts.

Montgomery County was pleased that Congress in Section 6206(c)(2) of the Act directed FirstNet and NTIA to consult with local jurisdictions regarding the distribution and expenditure of funds that will be required to carry out network policies. Montgomery County submits that local governments should be able to seek reimbursement for their efforts to assist states compile all possible information necessary to address issues arising from:

- (i) Construction of a core network and any radio access network build-out;
- (ii) Placement of towers;
- (iii) Coverage areas of all networks;
- (iv) Adequacy of hardening, security, reliability, and resiliency requirements;
- (v) Assignment of priority to local users;
- (vi) Assignment of priority and selection of entities seeking access to or use of the nationwide public safety interoperable broadband network; and
- (vii) Training needs of local users.

Montgomery County further recommends that NTIA as part of the state plan should require that states demonstrate that they will undertake outreach, information gathering, and

⁸ *Id.* at § 6302(c).

governance efforts that demonstrate that they will gather all the information needed to effectively consult with FirstNet such that the end produced provides tangible, actionable, and defensible implementation plans.

B. NTIA must require that the coordinator, be it a single officer or governmental body, is both up to the task and committed to local issues, including funding availability.

Montgomery County does not believe that there needs to be a single national model as to who or what entity should serve as the state coordinator. The governor of each state will choose whether an individual or governmental entity is designated to serve as coordinator. The County does believe, however, regardless of the coordinator chosen, NTIA must ensure that each state conducts a coordinated needs assessment process. This needs assessment process must involve local jurisdictions (both elected and public safety disciplines) as equal participants. If the plan includes this local needs assessment process, and if NTIA ensures such local participation, then who or what entity offers such coordination is less important than what is offered.

C. The SLIGP should be structured to provide States and local governments with support for inventorying existing infrastructure, including towers, sites, and network coverages.

Section 6206(c) (2) of the Act is clear that FirstNet must consult with its governmental partners regarding which existing assets can be employed in the nation network. The RFI appears to reflect an understanding that non-federal partners, such as the County, will need time and funding to collect the necessary information before they are ready to consult with FirstNet. NTIA should make funding available to a State only after it demonstrates that it has implemented (or has begun the process of implementing) a governance structure with adequate regional, local, and tribal representation and has consulted with regional, tribal, and local entities to determine their priorities and needs.

D. The DHS grant processes provide workable models for NTIA to replicate in the SLIGP to ensure local public safety entities are afforded the opportunity to participate in the planning process.

The RFI asks how can it ensure that states' plans involve the local entities in the SLIGP. The County believes that each state should conduct a coordinated needs assessment in their planning process, and that local entities must be involved as equal participants in that process. With respect to the specific requirements that NTIA should include in the grant program to ensure that local and tribal public safety entities can participate in the planning process, the County suggests that NTIA consider following the DHS grant processes.⁹

IV. ENSURING PARTICIPATION BY EXISTING PUBLIC SAFETY GOVERNANCE AND PLANNING AUTHORITIES

The County believes that NTIA should retain a close hold on funding or create appeal mechanisms to ensure existing public safety governance and planning authorities' voices are heard in the SLIGP. This could be done by requiring states to develop a process for ensuring local government input but leaving the states wide discretion as to the structure and details of that process. For instance, NTIA might withhold funding until a state demonstrates that it has implemented a governance structure with adequate regional, local, and tribal representation. Such plans might include a set aside of certain funds (we would hope a substantial amount) for regional, tribal, and local entities to conduct planning, if the local entity agrees to meet certain standards and to conduct specific work to facilitate the State's planning efforts.

NTIA might also create a system of checks and balances whereby a local entity could protest directly to the FirstNet Board if it believes it is not being adequately represented in the

⁹ There exist numerous state implementation and planning programs in place today that are managed out the Department of Homeland Security that could serve as a model for NTIA. For more information about the DHS grant program, see <http://www.fema.gov/government/grant/hsgp/>.

SLIGP; or reserve for local entities the right to directly apply for grant funding if the state proves unwilling or unable to participate in the planning grant process.

V. LEVERAGING EXISTING INFRASTRUCTURE

The RFI at paragraph 5 asks how “How should States and local jurisdictions best leverage their existing infrastructure assets and resources for use and integration with the nationwide public safety broadband network?”

A. All Parties First Need to Know What Exists.

The County suggests that the first necessary step is to have an up-to-date inventory of existing assets (public safety and other government-owned tower space and useable building sites) that are available and suitable for sharing. There also needs to be an up-to-date inventory of government-owned communications networks (fiber and microwave). An inventory of all assets that are available for use by FirstNet and its vendor(s) can be compiled on a common database, either within a region or within a State, for potential LTE interest and use.

B. A “Model License” Is Needed To Establish Fair, Consistent, and Reasonable Compensation for Use of Local Government Assets.

While local jurisdictions will be pleased to share available assets for integration in the public safety network, they will need to continue to exercise control over their assets to ensure that they are for public safety LTE use, not for the use of a commercial partner. Furthermore, a standard cost or reimbursement model for access and use of infrastructure needs to be developed for budgeting considerations.

FirstNet should therefore develop a “model” license agreement that is accepted by participants to address the terms and conditions for use of State, local, tribal, and regional infrastructure, whether such use is by FirstNet or its chosen vendor(s). It cannot be overstated how important it is that local and regional entities be involved in the development of any such

agreement. Local and regional entities will not cede control readily over local and regional assets. Rather, local and regional entities need to maintain control over both the communications network assets and the real estate on their public safety communications sites for future use after LTE implementation.

C. Ensuring Fair Treatment and Inclusion of Local Infrastructure Use

NTIA notes that Section 6206(b)(1)(B) of the Act directs FirstNet to issue open, transparent, and competitive requests for proposals (RFPs) to private sector entities for the purposes of building, operating, and maintaining the network and asks how Federal, State, tribal, and local infrastructure can be incorporated into this model.¹⁰

For the RFP to be transparent, all parties must have as much information regarding existing assets as possible; the inventories suggested above will assist all to better understand what assets are available and how the SLIGP has incorporated these assets. The County has no issue with NTIA's suggestion that States serve as clearinghouses or one-stop shops where entities bidding to build and operate portions of the FirstNet network can obtain access to resources such as towers and backhaul networks – so long as such local assets are covered by the model agreement¹¹ we outlined above.

¹⁰ RFI at paragraph 6. The County understands and appreciated that there are commenters that feel this question cannot be answered fully without a better understanding of the network business model selected by the FirstNet Board of Directors. The County never-the-less seeks to offer its best advice as this is a challenge that can be avoided in accurate and detailed inventories are created.

¹¹ Regional, tribal, and local governments often provide access to public infrastructure under terms and conditions that fairly compensate the local governments for the asset it brings to these transactions. Under the model agreement suggested above, the compensation may be in the form of an offset of its in-kind contributions or other compensation methodology.

VI. DHS PROVIDES WORKABLE MODELS FOR STATE AND LOCAL IMPLEMENTATION GRANT ACTIVITIES

At paragraph 7 of the RFI, NTIA asks commenters to identify best practices that NTIA should consider adopting for the State and Local Implementation grant program as a means to ensure mission success. The County repeats its earlier suggestion that the SLIGP would do well to mirror the practices of many of the DHS grant programs.

The County would also suggest that NTIA employ many of its own models from the Broadband Technology Opportunities Program (BTOP), which incorporate several best practices for grant management procedures. These best practices include:

- Online grant management tools, such as grants-on-line or PAM, that provide a quick and uniform process to administer the grant.
- Uniform guides and templates for reporting, modifications, and other grant requests.
- Fact sheets that provided a quick glance and key issues.
- Seminars and webinars that detailed critical aspects of the grant, i.e. match requirements, reporting requirements, etc.
- Allowing non-federal match contributions to include both cash and in-kind assets.

A. Planning, inventory, governance and other needs assessment programs should be eligible expenses under the SLIGP.

Regarding the type of activities that should be allowable¹² under the State and Local Implementation grant program, the County suggests that planning, inventory, needs assessment, governance organization, project implementation, and training and education are all activities that should be allowable for grant funding. The costs that should be eligible for funding should include all costs directly associated with the national broadband public safety network, inclusive

¹² See paragraph 8 & 9 of the RFI.

of management and administration activities. The County further believes that data gathering on current broadband and mobile data infrastructure should also be considered an allowable cost. While it is not anticipated that any new positions would be created by this work, there should not be a prohibition on using eligible costs to fund such a position if needed to support the work plan for the nationwide public safety broadband network.

VII. RISK AND IMPACTED CONSUMERS SHOULD BE THE STANDARD FOR PRIORITIZING GRANTS

In response to NTIA’s question regarding how it should prioritize funding for activities that ensure coverage in rural as well as urban areas,¹³ the County submits that risk and the ability to protect the greatest number in our population should be the lead considerations. Other factors that NTIA might consider are:

- (1) Existing public safety networks in use for local or regional interoperability;
- (2) Previous broadband efforts/studies underway or completed; and
- (3) Existing infrastructure identified for early availability.

VIII. A WORKABLE PLAN THAT PROPERLY INVOLVES LOCAL GOVERNMENT IN THE PLANNING PROCESS IS ONE OF THE OUTCOMES THAT MUST BE ACHIEVED BY THE STATE AND LOCAL IMPLEMENTATION GRANT PROGRAM.

NTIA at paragraph 13 asks what outcomes should be achieved by the SLIGP, but then goes on to ask about documents and measurements as part of those achievements. Because it is so early in the process, the County is hard-pressed to identify any achievements other than a plan for deployment that has local government involvement, and will result in a national public safety network that is interoperable. Evidence that such a plan can work will be the presence of inventories of:

¹³ See paragraph 10 of the RFI.

- Assets, such as available sites (public safety and other government-owned, tower space and useable building sites – all of which are available and suitable for sharing), and government-owned backhaul (fiber and microwave).
- Stakeholders, such as agencies within the State, including up-to-date point of contact information and first and secondary responders, along with appropriate governmental and non-governmental support personnel to determine the number and category of prospective users to help with the cost model for the State; and
- Needs as documented by surveys of jurisdictions to assess the critical coverage/capacity/training and funding requirements.

Once FirstNet provides more details, then the County and others will be able to identify what documents will be required to measure outcomes and who should be responsible for executing those documents.

IX. STATE FUNDING AND PERFORMANCE REQUIREMENTS

NTIA asks what role, if any, the States' Chief Information Officer (CIO) or Chief Technology Officer (CTO) should play in the State and Local Implementation grant program and the required consultations with FirstNet. It also asks how these different positions will interact and work with public safety officials under the State and Local Implementation grant program.¹⁴ Ultimately, this is a state-by-state decision, but NTIA should encourage States to use existing personnel and departments to build on current working relationships with local and regional entities.

Moreover, NTIA should recognize that in states with large metropolitan areas, local government CIOs and CTOs may operate public safety networks of comparable or even larger

¹⁴ RFI at paragraph 16

scale than state networks, and may provide more public safety services at the local level than those which are provided by the state. Therefore, NTIA may benefit by requiring that the State CIO and/or CTO and the CIO and/or CTO from the State's two largest jurisdictions be involved in any consultation process.

X. NTIA SHOULD FOLLOW ITS BTOP MODEL FOR ADDRESSING MATCH AND WAIVER QUESTIONS

As the RFI notes, the Act requires that the Federal share of the cost of activities carried out under the State and Local Implementation grant program shall not exceed 80 percent of the costs, but Congress also provided the Assistant Secretary with authority to waive the non-federal match upon determining such a waiver is in the public interest.¹⁵ The County offers the following with respect to what should constitute a non-federal match and when waivers should be granted.

A. NTIA should take the broadest possible view on considering in-kind contributions, existing personnel, and the like included in the kinds of activities that are valued as part of the match

The County, as a member of a successful Broadband Technology Opportunity Program (“BTOP”), has long felt that NTIA showed great leadership and insights in developing a local match for the BTOP program. We believe that such a model would well serve the State and Local Implementation program. Much like the BTOP program, NTIA should define permissible sources of a local match as broadly as possible, to include state and local personnel assigned, in-kind resources provided, and associated project costs incurred. For instance, a number of local jurisdictions have committed local resources, personnel, and funding to the deployment of

¹⁵ RFI at paragraph 17

interoperable public safety networks that should be available for credit against any non-federal match.

B. Waivers should be available, applied consistently, and guided by need to promote participation.

NTIA must not allow the match requirement to impede a robust State and Local Implementation grant program. A showing of financial hardship in contributing match funds should be given considered through a uniform system of waivers. If NTIA is prepared to waive match requirements for any applicant, it must be prepared to waive requirements for all similarly-situated applicants.

XI. MISCELLANEOUS

The County suggests that NTIA should consider addressing the following:

- (1) NTIA must not ignore local and regional entities by focusing solely on States. Local governments require funding for planning and training. NTIA must ensure that funds given to States for distribution are fairly allocated to local and regional entities.
- (2) Use of local assets must include appropriate contractual protections for the local government and reasonable compensation.
- (3) Funding should be based on the need for and complexity of public safety planning, not the physical size of the state or region.
- (4) The planning process must enable localities to specify their performance requirements and key areas for coverage, including the locations where high bandwidth will be required for operational purposes (such as EOCs and data centers where large databases are stored for use by first responders in the field).

* * *

Montgomery County appreciates the opportunity to make these comments in response to the RFI, and looks forward to participating with NTIA in the future as this process moves forward.

Respectfully submitted,

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