

**Before the
National Telecommunications
and Information Administration**

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

**COMMENTS OF THE STATEWIDE INTEROPERABILITY COORDINATORS FOR
THE DISTRICT OF COLUMBIA, THE STATE OF DELAWARE,
THE STATE OF MARYLAND, THE COMMONWEALTH OF PENNSYLVANIA,
THE COMMONWEALTH OF VIRGINIA, AND THE STATE OF WEST VIRGINIA**

The District of Columbia, the State of Delaware, the State of Maryland, the Commonwealth of Pennsylvania, the Commonwealth of Virginia, and the State of West Virginia (“Mid-Atlantic States”) are in the process of forming a regional consortium to provide multi-state governance of the nationwide public safety broadband network (“NPSBN”) in the mid-Atlantic region. The Mid-Atlantic Consortium for Interoperable Nationwide Advanced Communications (“MACINAC”) will be established via the execution of a consortium agreement currently under review by each of the six Mid-Atlantic States. Though MACINAC is still nascent, the Statewide Interoperability Coordinators for the Mid-Atlantic States (“Mid-Atlantic SWICs”) submit these comments in response to the National Telecommunications and Information Administration’s (“NTIA”) Request for Information¹ from the perspective of participants in an imminent partnership in the multi-state consortium.

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

I. Introduction

The NTIA RFI seeks information to help NTIA establish the requirements for the State and Local Implementation Grant Program (“Grant Program”) required by Section 6302 of the Act.² As described in the Act, the Grant Program will make grants

to States to assist State, regional, tribal, and local jurisdictions to identify, plan, and implement the most efficient and effective way for such jurisdictions 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.³

The Mid-Atlantic SWICs, through the MACINAC initiative and their own State-specific efforts, have begun work in areas within the statutory description of the Grant Program. Over a year ago, we first sponsored and began developing a multi-state, regional approach to deployment and operation of the mid-Atlantic portion of the nationwide public safety broadband network. The MACINAC initiative is well-aligned with the Act’s requirement that the First Responder Network Authority (“FirstNet”) consult with States in carrying out its responsibilities under the Act.⁴ By providing a mechanism for the Mid-Atlantic States to coordinate their activities and adopt concerted approaches to common tasks, MACINAC will serve to simplify the consultation process. Depending upon FirstNet’s approach, MACINAC may also serve as a model for regional deployment of the nationwide network.

In beginning its planning for the nationwide network in the mid-Atlantic region, the Mid-Atlantic SWICs, through the MACINAC initiative, have developed a draft MACINAC governance agreement, identified and documented a cooperative procurement process, created an asset inventory template, and held the first of a number of State-specific stakeholder meetings. With help from the Grant Program, the Mid-Atlantic States expect to continue this work and further conduct asset

² Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012) (“Act”), § 6302(a).

³ *Id.*

⁴ Act, § 6206(c)(2)(A).

assessment and other tasks critical to the FirstNet consultation and network planning processes. The Mid-Atlantic SWICs, as the sponsors and primary drivers of the MACINAC effort, are deeply involved in the overall policy development surrounding the 700 MHz public safety broadband network and offer these comments to help ensure that the Grant Program best supports FirstNet and the States in achieving their common public safety goals.

II. Governance

The RFI poses a number of questions that touch on the critical issue of governance, particularly at the State level. MACINAC will serve as a coordinating mechanism through which its member States will together arrive at a common position and plan of action, but it is not designed to impose disputed views on any of its members. Thus, MACINAC States will each nonetheless require their own internal governance structures to collect and share information, and obtain the support and active involvement of governmental entities at the State, intra-state regional, local and tribal levels, as well as federal governmental entities and nongovernmental entities within the State.

A. Central Role of the SWIC and the SIEC or SIGB

Thanks to the extended and persistent efforts of States working with the Office of Emergency Communications (“OEC”) at the U.S. Department of Homeland Security, almost every State has a Statewide Interoperability Executive Council (“SIEC”) or Statewide Interoperability Governing Body (“SIGB”) that works closely with the SWIC. The SIECs and SIGBs are usually effective and open governance bodies that are well-suited to take on the additional role of governance for the NPSBN in each State. Importantly, these bodies exist today, and they are already very familiar not only with issues of wireless communications interoperability, but also with many of the resources and assets within the State, at all levels of government, that might be implicated in the planning for the NPSBN. The SIECs and SIGBs are responsible for ensuring interoperable public safety and emergency communications and data

sharing not only within each State, but also with neighboring States. In the Mid-Atlantic States, the SWICs (endorsed by the SIECs) have sponsored and driven the MACINAC initiative in order to maximize interoperability and efficiency in the deployment of the NPSBN in the mid-Atlantic region. The SIECs have engaged in preliminary intra-State planning and discussions and in some cases formed subcommittees specifically focused on the NPSBN. In short, the SWICs and the SIECs in the Mid-Atlantic States have been at the forefront of the nationwide public safety broadband initiative.

Recognizing that not all States have the benefit of an active, functional SIEC or SIGB, the Mid-Atlantic SWICs hesitate to suggest that placing such bodies at the center of State-level governance for the NPSBN should be a requirement of the Grant Program. In light of our collective experience with these bodies and our understanding of their tremendous value in advancing the goals of interoperability and efficiency in communications system purchases, we do urge NTIA to strongly recommend to each State that it use its SIEC or SIGB as the central governance body for the State's involvement with FirstNet and the NPSBN. To the extent that the SIEC or SIGB is not up to the task, the State should take this opportunity to use funds from the Grant Program to improve the SIEC or SIGB as appropriate, including for the establishment of such a body if none currently exists.

The Act provides that NTIA must "require each State to certify in its application for grant funds that the State has designated a single officer or governmental body to serve as the coordinator of implementation of the grant funds."⁵ This "coordinator" need not be a central player in a State's governance structure, but as the point of contact for NTIA with regard to the Grant Program, it should certainly work closely with the governance structure—the SIEC or SIGB as suggested above. The SWIC, who is the single individual in each state most directly charged with ensuring communications interoperability, already works closely with the SIEC or SIGB and is best positioned to serve the role of coordinator. Further, because the coordinator also serves as the State's point person with whom

⁵ Act, § 6302(d).

FirstNet must engage for purposes of discharging its statutory duty to consult with the State,⁶ it is critical that the coordinator have a broad and informed view of State's interoperable communications requirements and capabilities. Again, the SWIC is the obvious choice: NTIA should strongly recommend to each State that it designate its SWIC as the "single officer," or its SIEC or SIGB as the "governmental body," to serve as "coordinator" under Section 6302(d) of the Act.

The State Communications Interoperability Plan ("SCIP") serves as the central document reflecting each State's approved policy for interoperable communications. The SWIC and the SEIC are deeply involved in its development and approval, and they refer to it regularly for policy guidance and direction. Since the NPSBN will likely become the most complex and active aspect of interoperable communications in each State, each SCIP should be revised to include wireless broadband.⁷

B. Ensuring Broad Input to the Consultation Process

The Act requires FirstNet to consult with "regional, State, tribal, and local jurisdictions" through the same single officer or governmental body that the State designates to serve as "coordinator of implementation of the grant funds."⁸ Thus, each State will require a substantial governance structure activated to collect the data and develop the policy positions communicated by the "coordinator" to FirstNet.

That governance structure—which should be centered on the SIEC or SIGB, as we explain above—must accept and encourage input from a vast array of participants, including all levels of government, all public safety disciplines, and nongovernmental entities, including private parties. These participants could provide their input and participate in planning work through the SIEC or SIGB generally, via a broadband subcommittee, or perhaps even through a work group focused specifically on

⁶ Act, § 6206(c)(2)(B).

⁷ Each year, OEC produces a template for States to use to update their SCIPs. For the 2013 template, OEC is including wireless broadband.

⁸ Act, §§ 6206(c)(2)(B), 6302(d).

that type of participant—for example, a tribal governments working group within a broadband subcommittee of an SIEC, or similarly a critical infrastructure working group or emergency medical services working group. These input and planning organizations should conduct extensive outreach within their communities to ensure that each type of participant is easily able to provide input to the process and support the planning effort. For private parties, particularly, such an approach should enable and encourage involvement of potential partners that can help defray the costs of deployment and operation of the network; a key focus of a critical infrastructure working group, for example, might be the development of proposals for sharing the financial burden of the network in exchange for private use of the network. Any role State governments wish to assign particular officials or agencies within the State government should be a decision left to State discretion; while the Mid-Atlantic States recognize the value of including the State CIO or CTO in the SIEC process, we urge NTIA to leave that decision to each State.

The RFI does point out in Question 2(g) an ambiguity in the Act with regard to the consultation requirement: the Act requires FirstNet to consult with “regional, State, tribal, and local jurisdictions,” but it does not indicate whether “regional” connotes a collection of jurisdictions within a single State, a collection of jurisdictions smaller than States that perhaps crosses one or more State boundaries, or a collection of States.⁹ As a consortium of States, MACINAC will surely expect FirstNet to consult with it (whether directly or through the “coordinator” for each MACINAC State), but the most productive interpretation of the term “regional” in this context is the inclusive one, accommodating “regions” of all three types described above. There is no need to exclude any of these descriptions from an interpretation of the term “regional,” and many reasons to include them all. The Grant Program should support input and participation through “regions” however defined.

⁹ Act, § 6206(c)(2)(B).

In preparing to consult with FirstNet, States should establish strong, active governance structures as described above. They should also begin the work of data collection described below. But States should be aware that the value of their consultation with FirstNet is not limited to helping FirstNet design and deploy a radio access network in the State that meets users' operational needs. States' consultation with FirstNet also will help FirstNet understand States' business requirements and devise an end-to-end service to which potential users at the State, regional, local and tribal levels will in fact subscribe; a network that does not attract subscribers is a failure. As a result, in preparing to consult with FirstNet, States should also work to complete not only the data gathering described below, but also the cost assessments and market analyses necessary to help FirstNet develop an attractive broadband offering and to help States evaluate that offering.

III. Collecting Data on Assets and Requirements

The Act requires FirstNet to utilize in the network, "to the maximum extent economically desirable," existing infrastructure, including infrastructure owned by Federal, State, tribal or local government entities.¹⁰ The Act further requires FirstNet to consult with non-Federal jurisdictions with regard to the placement of towers and the coverage the network provides its users.¹¹ Thus, in order to support FirstNet and prepare for the required consultation, States should undertake to collect data on the infrastructure owned by governments within the State, as well as the needs of users within the State.

A. Identifying and Evaluating Assets

To obtain such data, the SIEC or SIGB should, through the subcommittees and working groups describe above, perform outreach and compile an inventory of relevant assets. The goal of this exercise

¹⁰ Act, § 6206(c)(3).

¹¹ Act, § 6206(c)(2)(A).

is solely the identification of the assets, not any detailed evaluation of the asset that could be used to gauge its suitability for use in the network. This asset identification work is essentially research, conducted from the office without need of site visits. Assets to identify would include, for example, existing radio tower sites, fiber and microwave links, and government-owned properties that might be used for new tower installations (such as building rooftops, parking lots, etc.).

The more complex, time-consuming and costly task is the evaluation of the identified assets. This work requires visiting the asset and conducting a technical assessment to collect data on the asset that FirstNet can use (perhaps at a later time) to determine whether the asset can be used in the network and what work will be necessary to bring the asset into compliance with FirstNet requirements. This data will include such items as available space on towers, on the ground or in shelters; tower age and structural capacity, capacity and condition of existing backhaul facilities; and the availability and capacity of backup power equipment.

The Mid-Atlantic SWICs make two specific recommendations in connection with the work of identifying and evaluating assets. First, NTIA should work with OEC to establish a method to provide asset identification and evaluation services that is similar to the OEC Technical Assistance (“OEC TA”) approach. Each year, OEC issues a catalogue listing services it will provide States upon request. OEC budgets a given amount of federal funds to support each request, and OEC contractors perform the work for the requesting State, saving the State the trouble of undergoing a procurement process. The Mid-Atlantic SWICs urge NTIA to facilitate an approach similar to the OEC TA model (either through OEC or otherwise) that States may use to accomplish the asset identification and evaluation work to prepare for the statutorily required consultation with FirstNet.

Second, NTIA should ensure that a single electronic template is used for the collection and submission of the asset data, in order to make the data readily consumable by FirstNet. It would be best if FirstNet provided that template itself, and the timing of the Grant Program and the asset data

collection may allow for FirstNet to provide the template. But if FirstNet cannot provide the template in time to accommodate States' data collection efforts, NTIA should facilitate the creation and use of a single template, perhaps through the help of an expert organization such as the National Public Safety Telecommunications Council ("NPSTC"). Through use of a common, expertly designed template, States would be sure to collect the right data and present it in terms and format that is of the greatest use to FirstNet.

B. Requirements Data

In addition to data on assets, States could support the FirstNet consultation process by conducting a needs assessment of prospective public safety and other users of the NPSBN in the State. This needs assessment could be facilitated through the appropriate work groups within the SIEC or SIGB, though it may be best to use a qualified third-party consultant. As recommended above with regard to asset data, an approach similar to that used for OEC TA would be very helpful in obtaining such services. The needs assessment would include, for example, a survey of mobile data applications that would be accessed via the NPSBN, a review of required prioritization capabilities, and the number of expected NPSBN users there are in the State, including all levels of government, public safety entities from all disciplines, "secondary" responders, and nongovernmental users. The needs assessment may help FirstNet develop its business model by collecting data to gauge the per-subscriber price users would be willing to pay for the service, as well as identifying details of potential/likely public-private partnerships that might be struck for use of the NPSBN in the State.

A critical aspect of the needs assessment is a survey of network coverage requirements. Working through the SIEC or SIGB, the State should develop data indicating areas of different coverage needs, driven by the nature of the use the network is expected to experience in given geographic areas.

IV. Grant Program Structure, Administration, and Funded Work

Though much of the RFI focuses on how States might prepare for consultation with FirstNet, NTIA's short-term statutory mandate is to issue the requirements for the Grant Program. Thus NTIA must define the work the Grant Program will fund, the methodology for determining which grants to award and the amount of those grants, and the methodology for granting requests to waive the non-federal match.

Best Practices to Consider for the Grant Program. We have already identified the OEC TA program as containing features that would be useful here: the ability to obtain relevant services by selecting them from a federal catalogue without the need for either a financial transaction or a procurement process. This approach allows more funds to be used for the desired activities rather than administrative tasks and helps promote standardization of reports and planning methodologies. As an alternative, NTIA or OEC might help States save time and grant funds by developing standardized Statements of Work for the procurement of common services, such as asset evaluation or coverage design. NTIA's State Broadband Initiative (otherwise known as the State Broadband Data and Development Grant Program) provided a standardized approach to data collecting and reporting; it may provide some guidance to help States develop and collect asset data under this Grant Program. Finally, NTIA should look to federal incentive programs as possible models to help provide States further incentive to actively pursue planning activities and consultation with FirstNet. Though States may vary in the degree to which they are focused on the development and deployment of the NPSBN, FirstNet cannot succeed without their active support.

Work Eligible for Funding. The NTIA should allow Grant Program funds to be used for any work that fits within the broad description of the Grant Program purpose set forth in Section 6302(a) of the Act. Such work includes not only asset identification and evaluation work, but also collection and analysis of needs requirements data, planning of potential cost offsets (such as tower leases, public-

private partnerships, etc.) and other business model development, and the development and operation of a strong governing body (which we suggest be centered on the SIEC or SIGB, as explained above) including updating the SCIP. Grant Program funds should be useable for personnel costs (whether new or existing employee positions or contractor positions), meetings (national, regional, or in-state, including travel), awareness/outreach efforts (OEC TA offerings could also provide awareness/outreach support), and the cost of ongoing support for the work of State broadband offices related to the NPSBN. Grant Program funds should be available for at least three years from the date of award.

Prioritization Among Grant Activities. The Act directs NTIA to establish Grant Program requirements including “[p]rioritizing grants for activities that ensure coverage in rural as well as urban areas.”¹² This is an odd mandate, in that FirstNet will determine, based upon coverage needs and available funds, the areas that receive coverage; it is hard to imagine an activity NTIA could fund under the Grant Program that would “ensure coverage.” Nonetheless, NTIA should consider the extent to which State grant funding requests include tasks that would support coverage in both rural and urban areas. Such tasks could include, for example, development of a working group within the SIEC or SIGB to conduct outreach to and collect asset data from rural communities.

Distribution. In considering methodologies for allocating grant funds among the States, NTIA may wish to consider a number of factors, including geographic size, difficulty of terrain, overall population, number of regional, local and tribal governmental entities that may use the NPSBN in the State, number of potential public safety entities and users of the NPSBN in the State, and the estimated number of assets to inventory and evaluate.

Match Waiver Considerations. The Act requires the Grant Program to cover only 80 percent of activity costs, leaving the State to pay 20 percent. NTIA is authorized to waive that requirement for

¹² Act, § 6302(c)(3).

good cause or if NTIA finds a waiver to be in the public interest.¹³ The Mid-Atlantic SWICs urge NTIA to set a very low bar for match waivers, even to the point of finding it in the public interest to waive the matching requirement entirely. The reason is that it is in the public interest that FirstNet succeed in its efforts to deploy a network in every State that meets the operational and financial needs of public safety. FirstNet cannot succeed in this endeavor without the active support of the States as well as regional, local and tribal government entities. States that are energized to provide such support will do so to the extent their available resources allow; any States that are not so inclined will be further discouraged by the matching requirement. In short, the matching requirement will hurt FirstNet in its efforts, not help. As noted above, NTIA should be providing incentives to States to participate, not imposing the disincentive of a match requirement. At the very least, NTIA should allow any match requirement to be met via in-kind contribution, as in other grants.

Outcomes. Given the wide variety of useful activities the Grant Program should support, specifying outcomes to require across all grants is problematic. The Mid-Atlantic SWICs, though, in furtherance of our recommendation that all States establish fully functional and active governance centered on the SEIC or SIGB, suggest that all States that do not already possess such a governance structure should endeavor to realize it as an outcome of the grant. Other outcomes that States should attempt to achieve, depending on the focus and adequacy of their grants, include but are not limited to a completed asset inventory, a complete database of asset evaluations (using the common template described above), a set of radio access network requirements adequate for a Request for Proposals, and a cost model for deployment of the network in the State.

¹³ Act, § 6302(b).

V. Conclusion

The Mid-Atlantic SWICs applaud NTIA for moving swiftly to establish the Grant Program and begin distributing funds to support the development and deployment of the nationwide public safety broadband network. We urge NTIA to establish requirements for the Grant Program consistent with these comments.

Respectfully submitted,

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