

**Before the
DEPARTMENT OF COMMERCE
National Telecommunications and Information Administration
Washington, D.C.**

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

**COMMENTS OF THE STATE OF NEVADA; COMMISSION ON HOMELAND SECURITY, STATE OF NEVADA
NETWORK (“SONNet”) SUBCOMMITTEE**

The State of Nevada, through its Commission on Homeland Security, hereby respectfully submits its Comments in the above referenced matter. The National Telecommunications and Information Administration (“NTIA”), is requesting public comment on certain aspects of the implementation of the Middle Class Tax Relief and Job Creation Act of 2012 (“Act”)¹ with respect to establishing the State and Local Implementation Grant Program.

INTRODUCTION

In May of 2010, the State of Nevada organized the users of the Nevada Shared Radio System which consisted of the Las Vegas Metropolitan Police Department, Washoe County Sheriff’s Department, the Washoe Regional Communications System, the Nevada Department of Transportation, and NV Energy to represent the State of Nevada 700 MHz Broadband Wireless Network (hereinafter, “SONNet”) consortium. The SONNet members petitioned the Federal Communications Commission (“FCC”) to waive its 700 MHz public safety early deployment rules² in order to enable the construction and operation of a 700 MHz interoperable public safety broadband network in the State of Nevada. SONNet supported its Petition through a showing of how the requested waiver will serve the public interest by providing a statewide integrated wireless broadband data network for both private and public partners ranging from mission critical public safety communications for day-to-day and incident response, to ITS (Intelligent Transportation Systems) applications, such as real time traffic and incident monitoring, to Smart Grid and related utility data applications such as Remote Energy Management System controls and metering. The FCC has not acted on Nevada’s request for a waiver of its rules, and the Act’s passage leaves resolution of this issue unclear.

However, the Act established, among other things, a nationwide interoperable public safety broadband network (“NPSBN”) and the First Responder Network Authority (“FirstNet”) as an independent authority within the NTIA to support the national deployment of the NPSBN. The State of

¹ Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112-96, 126 Stat. 156 (2012)(Act).
² See, e.g., 47 C.F.R. § 27.1330 and § 90.1430 (2009).

Nevada is preparing itself to fully participate with the NTIA and others in implementing this mission critical public safety radio communications program for the nation and the state, and respectfully offers the following Comments to advance the purposes NTIA and FirstNet.

CONSULTATION

Consultation with the States, as required by Section 6206(c)(2) of the Act, will reveal that all first responders demand access to a mission-critical (not solely commercial) grade network, but that every state has unique public safety mission critical service delivery challenges and user characteristics which must be considered in the integrative planning, development, deployment and operations of the national PSBN. In fact, Nevada has, as do other states in various stages of development and or deployment, strategies to implement interoperable LTE public safety networks. Only through a meaningful consultative process will FirstNet gain a national appreciation for the diversity of mission critical communication needs and technical data that does and does not exist across the nation.

DATA COMPILATION

Congress recognized the necessary and critical role consultation with the States would play in assuring that the valuable state based work that has taken place and that is underway in most every state is not lost on the efforts of establishing a mission critical national PSBN. Nevada has spent considerable resources and assembled significant amounts of technical and user data to support the development, management and deployment of its public safety communications programs. Its integrated public safety communications programs have long included and supported the purposes of public safety, state and local governmental agencies, tribal communities and utilities. The data and intelligence associated with these communication programs will no doubt be invaluable to the efforts of establishing the PSBN in Nevada.

Nevada plans to fully cooperate with FirstNet to supply technical data FirstNet believes essential to advance the developmental efforts of the national PSBN. Nevada believes that FirstNet will find useful data such as:

- Identification of existing telecom sites, categorized as urban and rural, supporting public safety communications for State, County, Local and Tribal PS agencies that could support the Statewide Radio Access Network
- Identification of existing backhaul capacity from existing radio sites; detailed backhaul architecture and capacity plan
- Network coverage requirements within the State based on population and critical coverage locations falling outside of population centers as reflected in 2010 census data
- Detailed site surveys of primary candidate sites including facilities assessment (e.g., towers, electrical service, space, etc.), existing backhaul service and site upgrades required to bring to compliance for LTE network use including hardening, security, reliability and resiliency requirements
- Current broadband applications
- Desired broadband applications and footprint
- Locations of PSAP facilities within the State
- Upgrades required at PSAP locations to support LTE Network connectivity and use
- Establishment of a governmental body to oversee the development of the Statewide first responder Radio Access Network

This is a significant data collection and assessment effort. The effort will require the use of resources beyond those currently employed at the State and Local levels. States, however, need to clarify where they do not have the internal capacity to handle and will thus require external resources and the expected timeframe for additional support, assuming these are temporary roles. Implementation and planning grants must be used to fund that data collection and assessment effort in addition to the other tasks required to establish the State's network requirements.

To ensure the effectiveness of the planning and data collection process and the usefulness of the resulting information, the program will require the granting agency to establish consistent planning goals, objectives and guidelines. Nevada will look to FirstNet to identify the data FirstNet requires together with implementation resources and time frames necessary to coordinate, collect and assemble the data in a nationally prescribed format.

STATE COORDINATION

The State of Nevada has taken specific action to allow FirstNet to begin coordinating its actions with Nevada. In response to the aggressive schedule established in the Act and recognizing the NTIA would soon begin to consult with the States, the State of Nevada Homeland Security Commission recommended the Governor issue an Executive Order establishing the SONNet board and a SONNet program manager to act as the governmental authority and single officer point of contact supporting FirstNet's consultations and implementation obligations with the State, as required by Section 6302(d) of the Act. It is contemplated that the SONNet Authority will coordinate Nevada's FirstNet implementation obligations with state, local and federal agencies including tribal, private sector and regional interests. The State recognizes the need to ensure the participation of public safety disciplines statewide to assemble a complete set of requirements for a Statewide Radio Access Network and promote adoption of the network. In addition, the state recognizes the benefit of sharing interoperable communications with Federal users within the State. It is also recognized that some of these users may have particular data security requirements that differ from those needed by the majority of the users of the network.

SONNet will also be charged with supporting any relevant funding management programs associated with NPSBN buildout and FirstNet. In the instant request for information the NTIA recognizes that regional interstate coordination and partnerships as well as strategic relationships with tribal and federal agencies will be necessary to support FirstNet.

Nevada advises the NTIA that it has had considerable experience in working with federal agencies, across borders and sovereign nations. Our experience suggests that as a result of statutory, regulatory, and sovereign nation status constructs, the ability to execute joint planning and development is often impeded when using common federal or state assets or fiscal resources. With respect to managing common grant resources that support the mutual interests of diverse users, Nevada recommends that NTIA seek a full understanding of the challenges related thereto and provide specific instruction and designated authority, to the extent available by law or regulation, to a grantee to manage common grant resources.

GOVERNANCE

Like every state, Nevada has employed a governing model to oversee the development of its land mobile radio ("LMR") system and the integration of radio systems to achieve interoperability and

interconnectedness. The Nevada Communications Steering Committee has supported this governing function and is similar to Statewide Interoperability Governing Bodies and Statewide Interoperability Executive Committees.

There are elements of this existing governance structure that are applicable to the governance of the broadband network. In particular, any existing mutual aid agreements and any inter-local agreements that were established to share resources during a critical event may be particularly useful. However, this network presents an entirely different set of challenges over long established, private LMR networks. This is not a preexisting network with established policies, procedures and practices associated with its use. In time, there will be a convergence of this network with other state communication resources. Until this network is built out and achieves a level of adoption across the State, it requires a special status for governance while also maintaining links with the governance organization of the more established LMR networks.

Nevada believes the Act necessitates a new level of governance authority at the state level to support the contemplated complex relationships between the private sector and public sector including State, local, federal and tribal agencies / non-profit organizations. These former governing bodies supporting LMR will continue to serve a necessary advisory role but are insufficient in their authority to implement a State's obligations under the Act.

The relationships contemplated by the Act and administered by the state between multiple private and public sector entities and nonprofit organizations will prompt an immediate examination of state statutory authorities to support a state's role in implementing and sustaining the national broadband network. Current Nevada law may not allow the State to assume the roles and responsibilities contemplated by the Act. Indeed, Nevada believes that many state statutes may require amendment to allow it to support the significant administrative and contractual obligations to integrate the shared use of public and private networks which may include all commercial carriers and federal agencies as DOD, DOE, BLM, USFS, USFW, and Native American tribes, among others.

Additionally, state statutes must be examined for other necessary state authorities to implement the Act such as: allowing for joint or shared management of public and private assets; administration of network management, costs and use; the establishment, collection and administration of network user fees and capital construction programs; entering into agreements for access to and collocation with private party assets and property; overseeing compliance of federal and state contractors with RFP constructs; securing and maintaining the privacy of commercial proprietary and trade secret information from public generated governmental inquiries, among other areas.

Nevada advises the NTIA to utilize the states to immediately conduct a comprehensive review of the Act with an eye toward identifying those provisions of the Act that may require a state to amend its statutory authorities to allow it to carry out its obligations contemplated by the Act. Nevada strongly encourages the NTIA to support the formation of an informal working group of State representatives to develop state statutory guidance with findings to the NTIA. This examination should be supported by planning and implementation resources and be conducted in a manner which is timely to allow States to seek legislative changes during the 2013 state legislative cycle or sooner. Nevada believes that FirstNet may be issuing many State implementation "advisory" notices. Information regarding potential necessary changes to State law should be among those advisory notices.

EXISTING INFRASTRUCTURE

Leveraging radio communications infrastructure has resulted in the strength of Nevada's current evolving PS radio network. Like many states, Nevada established state level technical and user committees to guide its evolving land mobile radio system architectures and integration to achieve a system of systems serving public safety and state and local governmental agencies, including utility service providers. Nevada has leveraged the value of shared network infrastructure and joint governance for many years and intends to support the national PSBN reach into Nevada through a continuation and expansion of these relationships. Moreover, Nevada understands that decisions on leveraging existing infrastructure must be based upon determination of interoperability by PSCR.

As already discussed herein, Nevada plans to fulfill its obligations under the Act and support the evolution of the national PSBN by establishing a state authority called SONNet. SONNet offers to serve FirstNet as an infrastructure integrator. As a state level integrator, SONNet will be available to work with and support FirstNet contractors as they discharge their obligations to FirstNet, including coordinating access to public and private network assets.

STATE AND LOCAL IMPLEMENTATION GRANTS

IMPLEMENTATION GRANT PROGRAM; BEST PRACTICES (LESSONS LEARNED)

Nevada expects that many of the planning and organizing functions of SONNet that serve the implementation requirements of FirstNet are eligible for funding support and cannot necessarily be provided without such funding support. Illustrative activities that should be allowable under the grant program includes:

- Establishing the network governance framework
- Creation of the Statewide Out-Reach Program of communication, education, information dissemination and collection
- Project website
- Stakeholder webinars
- Preliminary RAN network engineering/coverage requirements
- Statewide telecom/radio site database, including POC and access information
- Review of State regulations relating to Federal/State run network operating models and PPP formation
- Training on LTE technology and RAN networks
- Financial analyses of funding and operating models based on estimated usage
- Inventory planning

There are a number of federal grant programs that have been used in recent years to affect implementation of new or changed federal policy or programs that may be looked to for guidance. However, there are few comprehensive national programs of the scope and scale of FirstNet in the public safety area, if any. Nevada, respectfully suggests that the NTIA look to the grant and funding program most recently utilized by Health and Human Services to fund the planning and implementation of the nation's Health Insurance Exchanges required by the Affordable Care Act ("ACA"). Following the passage of the ACA which was charged with, among other things, establishing Health Insurance Exchanges ("HIX") in every state, participating states opting to establish their own exchange were

provided a planning grant to develop its specific HIX state plan. These were baseline HIX plans designed to be responsive to the criteria's, objectives and purposes of the ACA. The initial plans funded by HHS grant program were robust enough to provide a state template upon which a state would follow as it implemented its HIX and became eligible for continuing federal supporting funds.

The PSBN, which FirstNet is charged with deploying, is similarly as robust as the nation's HIX network, if indeed not more ambitious. The grant management program utilized to establish the HIX appear to have the internal controls necessary to meet the ambitious calendar established by Congress in the ACA. Given the complex nature of establishing a national PSBN and meeting timetables established by Congress, the HIX grant program may prove to be an instructive approach for the NTIA grant implementation program. The NTIA can also look to the administrative and control processes utilized in past years by the Department of Homeland Security ("DHS"). In fact, certain programs of the DHS grant program may be appropriate to support PSBN state specific initiatives or programs that FirstNet will need to evaluate and consider funding where state or region specific initiatives or programs serve to advance the deployment of the PSBN.

Additionally, Nevada agrees with the NTIA that certain provisions of the 2009 State Broadband Initiative ("SBI") such as the state specific mapping initiative, may indeed serve as an excellent data collection platform useful to FirstNet. The SBI, among other things, allowed states to designate an entity that was charged with collecting state specific broadband landscape data points and reflect broadband utilization and availability of a state using user-friendly mapping technology platforms. The purpose of the mapping was to gain an understanding of the extent to which broadband infrastructure exists within a state and to support and expand the integration of broadband and information technologies across the state. This mapping platform investment and work utilized in the SBI program should not be overlooked as a critical planning tool for FirstNet. The platform upon which the maps and data collected by Nevada's designated entity may be easily conformed to support the inventorying, identification, classification and utility of strategic infrastructure radio and terrestrial assets necessary to support the mission of FirstNet in each state. Developing a user friendly mapping / planning tool will be essential in understanding the extent to which there exists state, federal, private and commercial network resources in each state and region and how to best plan for the integration of those assets to support a national PSBN.

Nevada would recommend that FirstNet immediately beta test, in a few states, the concept of expanded use of an existing mapping program tool utilized by SBI to support the initial and long term planning and management of FirstNet. To the extent authorized by the Act, NTIA could fund a designated entity associated with the SBI program to begin working with one or more states and provide a critical beta test result supporting the interest of FirstNet.

GRANT ALLOCATIONS

Implementation planning grant resources distributed to the states will be necessary to commence the work of FirstNet. Implementation planning grant program resources should not be subject to distribution to the states based upon population. Like coverage for first responders, population has little relevance in identifying the extent to which networks and technologies are needed to support the deployment of a national PSBN. Indeed, the Act has a specific focus on providing LTE PSBN services to the most rural states. However, there are a number of useful considerations that should be considered when determining the allocation of grant resources, such as:

- Geographic area requiring network coverage

- Highway miles (input from State Dept.)
- Combination of population / highway miles
- Population density
- # of sites
- Uncovered rural broadband customers

Initial grant implementation resource determinations should be applied uniformly across all states to acquire the essential base line data upon which network judgments may be characterized and priorities can be established and programmatically addressed using phases of deployment at the state or regional level. Grant program management and disbursements should support each deployment phase.

Nevada believes that there should be little debate that each state will need to construct baseline plans and collect baseline data to support the national PSBN implementation strategies of FirstNet. And, it is most likely that no state contemplated the passage of the Act and evaluated the state fiscal impact of the Act. It will be incumbent upon the NTIA to allow FirstNet to uniformly fund the implementation planning phase of the PSBN in a comprehensive manner across all states. These initial implementation planning resources must also be guided by threshold grant and implementation uniform program instructions provided by FirstNet to allow the states to evaluate their resource requirements to comply with FirstNet.

MATCHING REQUIREMENTS

The Act provides that the Federal portion of the implementation grant programs not exceed 80 percent but also provides for a waiver of any or the entire state matching requirement upon meeting a public interest test showing. Nevada recommends that any public interest standard should be broadly and liberally construed to support a public good the determination of which may vary with each state or region. Nevada also recommends that the state match include other valuable consideration provided by each state in support of the national initiative to construct the PSBN. State matching should include but not be limited to the use of human resources supplied to govern the duties of the state related to FirstNet; providing access to technical, legal and administrative skills necessary to support FirstNet; providing access to legacy data and public/private network plans; and, other for value considerations that have been used in other grant programs in determining a grantees match. Nevada would also recommend that the implementation grant program provide for an appeals process, for good cause.

State financial resources are scarce and the competition for these resources is fierce. If there must be a matching amount from the State, the NTIA should accept the valuation of in-kind services toward those matching funds.

PERFORMANCE MANAGEMENT

Measuring performance and progress of each state in carrying out its responsibilities under the Act will be necessary to administer NTIA's federal obligations. Nevada has anticipated this requirement, and as discussed herein, established a governing authority called SONNet to manage all aspects of its obligations under the Act. The states have considerable experience in managing federal grant programs. Nevada recommends that the NTIA need only issue a statement of guidance that clearly sets out its expectations of the states. A statement of guidance should include, among other things, the

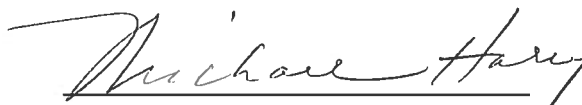
scope of responsibilities and authority that a designated body or individual must possess to implement a states obligations under the Act.

CONCLUSION

The creation of a national PSBN to offer essential public safety, integrates the communications needs of diverse users and supports the national goals creating a robust broadband network footprint to affect economic growth and create jobs is indeed a most worthy national policy. Nevada looks forward to becoming a partner in this national effort and in summary recommends:

- State financial resources are scarce and the competition for these resources is fierce. Adequate funding for the states must be made available to support the complex work necessary to plan, establish and construct FirstNet;
- States excel in understanding their public and in the delivery of public services. Effective and meaningful coordination, consultation and collaboration with the states will determine the success or failure of FirstNet;
- The relationships and obligations contemplated by the Act and administered by the state between multiple private and public sector entities and nonprofit organizations will prompt an immediate examination of state statutory authorities to support a state's role in implementing and sustaining the national broadband network. Nevada strongly encourages the NTIA to support the formation of an informal working group of State representatives to develop state statutory guidance with findings to the NTIA.

Respectfully submitted,



Michael Haley, Sheriff Washoe County, Nevada
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