



September 3, 2013

The Honorable Greg Walden
Chairman
Subcommittee on Communications and Technology
Committee on Energy and Commerce
House of Representatives
Washington, DC 20515

Dear Chairman Walden:

Thank you for the opportunity to testify before the Subcommittee on Communications and Technology at its hearing on FirstNet on March 14, 2013 entitled, "Oversight of the First Responder Network Authority (FirstNet) and Emergency Communications."

Attached please find my responses to the additional questions for the record of Members of the Subcommittee. If you or your staff have any additional questions, please do not hesitate to contact me or Sara Morris, Office of Congressional Affairs, National Telecommunications and Information Administration, at (202) 482-2075.

Sincerely,

A handwritten signature in black ink that reads "Sam Ginn".

Sam Ginn

Enclosure

cc: Anna Eshoo, Ranking Member
Subcommittee on Communications and Technology

Responses of Sam Ginn to Questions for the Record

The Honorable Greg Walden

1. In your testimony you state that one of the core concepts of the public safety broadband network will be interoperability with legacy public safety networks. How does FirstNet intend to achieve interoperability with the myriad land mobile radio systems that are already deployed? How will FirstNet ensure that devices from different jurisdictions can use legacy systems when responding to emergencies outside their jurisdiction?

The First Responder Network Authority (FirstNet) will achieve interoperability with existing legacy public safety networks by working to ensure the appropriate open, standards-based interfaces are developed that will allow for communications between the different legacy public safety networks. The functionality of these interfaces will be focused on allowing a basic voice communications capability to ensure there is a base level of communications interoperability between voice land mobile radio systems and the FirstNet long-term evolution (LTE) data system. The FirstNet network is being built as a nationwide network, therefore devices from different jurisdictions should work across all areas of the FirstNet network with the proper authentication and administration.

2. FirstNet appears to be requiring recipients of BTOP stimulus grants for public safety projects to surrender assets as a condition of lifting the suspension of those grants. If the grantees refuse FirstNet's requirement to turn over state property will the public safety projects and the federal and state funds invested in them to date be stranded? Why does FirstNet believe that BTOP grantees must surrender assets to FirstNet in order to achieve interoperability?

I appreciate the opportunity to clarify this matter for the record. To date, FirstNet has reached agreement with two BTOP recipients – the Los Angeles Regional Interoperable Communications System (LA-RICS) and the State of New Mexico – on a Spectrum Manager Lease Agreement (SMLA). Neither agreement requires any transfer of assets as a term or condition of the agreement.¹ That said, a key element of FirstNet's consultation process will be to identify whatever existing assets at the state, tribal and local levels could be of benefit in our nationwide deployment plan, to help us build the network as cost-effectively as possible in light of the limited funds available

¹ The full SMLA with LA-RICS and the State of New Mexico are available, respectively, at http://www.ntia.doc.gov/files/ntia/publications/firstnet_resolution_33_approving_smla_with_la-rics.pdf, and http://www.ntia.doc.gov/files/ntia/publications/FirstNet_Resolution_37_re_NM_SMLA.pdf.

3. Unlike the BTOP jurisdictions, the States are under no obligation to use FirstNet's services. How do you intend to encourage governors that face increasing budgetary pressure to not only participate in FirstNet by using the network, but by contributing existing state assets in some way? Does FirstNet intend to compensate states for their assets?

An important element of FirstNet's ongoing consultations with state, regional, tribal and local jurisdictions and public safety entities will be to obtain the input of these stakeholders on any of their existing assets that could be utilized in the deployment and operations of the network. This aspect of our consultations will clearly impact the development of our nationwide deployment plan and the states' decisions on that plan, as well as the speed and cost-effectiveness of our deployment and the long-term sustainability of the network. Until this consultation process can be completed, it would be premature for FirstNet to make any decisions concerning contributions of state assets or compensation for such contributions.

4. You stated in your testimony that you "want to work with Congress ... to explore obvious and reasonable measures" to avoid unnecessary costs or delays. We had a brief discussion about this during my question time at the hearing, but you did not provide details on the particular things you would like changed. Could you please specifically describe for the record the changes you are seeking?

FirstNet's task is virtually unprecedented in its scope and complexity, and, as seen in recent tragedies in Boston, Texas and Oklahoma, its mission is urgent. FirstNet will need to compete for customers by offering services that meet the needs of public safety anywhere in the country and do so at an affordable price. As a federal government entity, FirstNet is required to comply with all federal laws and regulations related to procurement and staffing. To meet its challenges, FirstNet will need to negotiate agreements with potentially hundreds of vendors, including wireless carriers, equipment manufacturers and others on all aspects of the network. I have been informed by Department of Commerce and other federal acquisitions officials and experts that, even under the best circumstances, executing virtually all of FirstNet's acquisitions will require a minimum of eighteen months. If there are protests and challenges, that time could extend to nearly two years. This could result in significantly increased costs and time delays than would otherwise occur in a commercial environment.

Section 6206(b) of the Tax Relief Act requires FirstNet to issue "open, transparent, and competitive requests for proposals to private sector entities for the purposes of building, operating, and maintaining the network..." These requirements provide important and fundamental safeguards for any entity entrusted with spending public funds. My intent is to maximize, to the greatest extent possible, efficiency and effectiveness under the current framework established by the Federal Acquisition Regulation (FAR). Toward that end, FirstNet has been working with acquisition, legal, and other officials within the Department of Commerce, and consulting with officials in other agencies that have undertaken similarly large and complex acquisitions, to understand how flexibilities within current procurement laws and regulations may best be used to support FirstNet's mission. That said, we are looking at alternatives, such as the Federal Aviation Administration (FAA) procurement process, which was built on various waivers provided by Congress in the 1990s, to see if there are process

improvements that may help FirstNet operate more cost-effectively and reduce delay, while maintaining accountability and transparency.

5. One of the most common criticisms of the broadband stimulus is that grants were awarded before work was completed to determine where investment was needed. We heard testimony that FirstNet will produce its network build plans before it has finished asking states where they need additional assets. Why isn't FirstNet completing its consultation with the states before it decides where and how it will build?

FirstNet is committed, and on track, to conduct essential consultations with state, regional, tribal and local jurisdictions and public safety entities and will do so before preparing the nationwide network design. As a former CEO, this comes down to first principles: you need to meet the needs of your customers. If you don't, you will fail.

FirstNet is in its analysis stage, exploring the multiple dependencies affecting potential designs and financial sustainability for the network. A primary goal is to meet user requirements for high-speed data and make FirstNet service affordable for public safety agencies nationwide. The results of formal consultations with state, tribal and local governments, public safety and other stakeholders, which commenced in May with our regional workshops and will continue through the summer, will be crucial to drafting the nationwide network plan and engaging in a successful request for proposal (RFP) process.

6. You stated that once nationwide interoperability, security and reliability standards are in place, FirstNet is "open to states to do whatever they want." Is it your intent to encourage states to refrain from opting out by giving them the kind of flexibility they would want within the framework of the FirstNet model?

I appreciate the opportunity to clarify this statement for the record. FirstNet's fundamental mission is to deploy a *nationwide* network dedicated to public safety. Any network offering nationwide service, particularly one built to public safety-grade standards, necessarily must adhere to uniform standards for reliability, security and connectivity, and be committed to interoperating with the nationwide core network. Any RAN – whether built by FirstNet or by a state – must adhere to these standards. Beyond that fundamental requirement, however, there is substantial opportunity for flexibility, such as the locations of Network Operating Centers, network prioritizations, etc. In fact, these are aspects of RAN build-out that FirstNet intends will be tailored to each state's particular needs regardless of whether the state opts-in or opts-out, and some of the key inputs FirstNet intends to receive as part of its consultations with states and other jurisdictions.

7. Is FirstNet constructing a cost model and conducting a financial analysis to determine if your plans are financially viable?

Yes, FirstNet is conducting cost modeling and financial analysis to ensure FirstNet meets its objectives successfully.

8. FirstNet's long-term funding structure is predicated on lease fees from opt-out states and user fees from all public safety users. How do you intend to collect these fees from states? If a state finds itself unable to pay, will FirstNet terminate their service?

One very important aspect of FirstNet's ongoing consultations with its stakeholders will be gaining the insights of the states, tribes, local governments and their first responders on lease fees and other aspects of the long-term sustainability of the nationwide network. As a result, while FirstNet is working to develop and assess a number of preliminary models concerning network costs and revenues, it has reached no preliminary conclusions on such issues, nor will any decisions be made until FirstNet's stakeholder consultations are conducted. FirstNet also may gain valuable information on lease fee issues through its work with the BTOP public safety projects. While FirstNet's negotiations on spectrum lease agreements with these projects have not yet concluded, one or more of these projects may be able to generate valuable information based on their billing and collections practices with their subscribers.

9. It is my understanding that FirstNet has already contracted with at least one firm for consulting services. To my knowledge, that contract was not put out for competitive bid or made available on the NTIA website for FirstNet. How many consultants has FirstNet already retained? What process was followed to ensure that these contracts complied with federal law? Please attach to your answers to these questions any agreements with outside firms for the subcommittee to review.

Until the recent hiring of our General Manager, FirstNet as an entity has consisted of a fifteen-person Board. The urgency and complexity of our task to deploy the nationwide 700 MHz LTE public safety network demands fast action, including preliminary, technical research and analysis (e.g., technical and financial modeling; inventorying existing wireless public safety standards and requirements), determining possible paths forward with respect to the BTOP public safety projects and other early builders; and planning and executing the required consultations with state, tribal and local jurisdictions and public safety to determine their various and unique needs and challenges for the network. To begin this work expeditiously, and until FirstNet acquires its own full-time experts and staff, FirstNet, through NTIA and several DOC Contract Offices, has entered into contracts with the following firms:

functionalIT: On September 13, 2012, the Census Bureau's Contracts Office set aside and then competitively awarded a contract to functionalIT, Inc., a professional woman-owned small business. The vendor provides advice and guidance to NTIA for management oversight and acquisition planning associated with the formation of FirstNet. The vendor helps supplement NTIA's limited staff to assist the Board with acquisition and project management support. The Census Bureau issued a Request for Proposals to small business vendors on the GSA Mission Oriented Business Integrated Services (MOBIS) Schedule that were capable of providing advisory and management support services. Approximately three consultants work under the contract but the number of hours fluctuates depending on need.

The Event Planning Group: On February 28, 2013, the Department of Commerce's Office of Acquisition Management Contracts Office awarded a contract to The Event

Planning Group through the 8(a) Business Development Program of the Small Business Administration. This program helps small disadvantaged businesses access the federal procurement market. The Event Planning Group was selected for an 8(a) sole source contract, after three 8(a) firms presented their capabilities in delivering the required services. The vendor is supporting six regional workshops for FirstNet to effectively consult with the state, tribal and local jurisdictions. The contract is fixed price for labor and cost-reimbursement for meeting costs.

Workforce Resources: On November 15, 2012, the National Institute of Standards and Technology's (NIST) Contracts Office awarded a contract to Workforce Resources, Inc. to provide consulting services to NTIA in support of business and technical planning and to assist with start-up activities for FirstNet. Workforce Resources, Inc. is a firm that provides support to federal, state and local government and corporations in the area of project management and staff augmentation. This contract was awarded as a time and materials (T&M) contract for a period of up to six months with a ceiling of \$4 million. NTIA was able to directly contract with Workforce Resources, Inc. through the 8(a) Business Development Program of the Small Business Administration. Up to eighteen consultants worked under this contract. Work under this contract was discontinued on March 17, 2013.

Workforce Resources II: On March 18, 2013, the NIST Contracts Office, on behalf of FirstNet, awarded a contract to Workforce Resources, Inc., to acquire subject matter expertise (SME) support for FirstNet in the areas of wireless telecommunications, business strategy, industry market research, outreach and communications. The vendor's responsibilities include recruiting and providing appropriate administration for qualified consultants with a variety of SME to assist the FirstNet Board start-up the organization, plan for the public safety broadband network, assist in wireless industry market research and consult with state, tribal, local and federal public safety organizations. This contract was awarded as a time and materials (T&M) contract for up to eight months. Workforce Resources received the second contract on a sole-source basis due to the unusual and compelling urgent nature of FirstNet's personnel needs, as a gap in service would have been detrimental to FirstNet's efforts. As of May 6, 2013, forty consultants have been authorized to work under this contract. During the period of this contract, FirstNet plans to conduct competitive acquisitions for longer term consulting services.

The Honorable Marsha Blackburn

1. Mr. Ginn, the City of Oak Ridge in my state of Tennessee is home of the Oak Ridge Y12 National Nuclear Security Administration Laboratory. The City and the Y12 Lab have come to an agreement on how to work together to deploy a Public Safety broadband system. This system will be funded locally. In October, the City of Oak Ridge filed an application with the FCC seeking an experimental special temporary authorization to test and evaluate public safety broadband. On the same day they filed this application, Oak Ridge sent you a letter asking for FirstNet's support.

I understand that Oak Ridge has been told that authorization not just from the FCC, but also from FirstNet is required for them to move forward. This matter has now been pending for 5 months despite Oak Ridge's efforts to work with you. Will FirstNet support this project? Tennesseans don't want this to become a situation where the citizens of Oak Ridge end up the losers. Can you provide me with an update on the status of this project?

FirstNet is actively engaged with the City of Oak Ridge and its federal partners in an effort to streamline the process for acquiring the various approvals needed for the City to test innovative LTE broadband public safety uses there. As you note, Oak Ridge accommodates significant nuclear assets, therefore city, state and federal officials need collaborative tools to ensure the security of the area. In addition, FirstNet informed the Federal Communications Commission (FCC) that it concurs with the proposed operation by Oak Ridge, via Special Temporary Authority (STA), on certain frequencies currently licensed to FirstNet, and on May 21, 2013, the FCC granted Oak Ridge's STA, which is effective through November 22, 2013.

The Honorable Lee Terry

1. Mr. Ginn, The conceptual network architecture that you put forth at your first Board meeting relies heavily on leveraging commercial carrier tower sites. It is my understanding that the majority of commercial carrier sites are leased from tower companies. Has FirstNet developed an estimate of these leasing costs nationwide?

The FirstNet nationwide network architectural approach has as a guiding principle the minimization of cost – to include operating costs (such as site lease costs) as well as capital costs. To achieve this objective, FirstNet foresees using a combination of state, tribal and local public safety sites, rural telecommunications and utility sites, commercial wireless carrier sites and commercial tower company sites. As we move into the detailed Radio Access Network (RAN) planning and the coverage for an area is being designed, the engineers will consider which radio sites represent the best value for FirstNet based upon a multiple variable analysis. Actual radio site selection will not begin until FirstNet has the benefit of input obtained through the state consultation process.

2. Mr. Ginn, my understanding is that most state and local tower sites are government-owned and, therefore, the costs of leveraging these sites would not necessarily have to be absorbed by FirstNet. While leveraging commercial carrier sites is certainly appropriate and something FirstNet should fully explore as contemplated by the statute, it should not do so to the exclusion of leveraging state and local infrastructure which could help stretch the \$7 billion available for deployment further. As a point of reference, I note that a comprehensive study issued last year estimated that the cost to deploy a public safety broadband network within the State of Minnesota would be in excess of \$300 million, even if use of existing state assets is maximized.

<https://dps.mn.gov/divisions/ecn/programs/armer/Documents/Minnesota%20Funding%20Grants%20v17%20Final.pdf>. Please inform me of how FirstNet intends to engage states on leveraging their sites in a timely manner when the planning grant program doesn't contemplate doing an inventory of state assets until the second phase of the program which may be two or three years off.

FirstNet fully understands the critical importance of state and local radio sites and is making a concerted effort to gather information that will allow it to leverage these assets to the maximum degree possible. Exploring the best methods to utilize state and local tower sites is a key part of our consultations with the states, which are underway, and gathering additional information on potential radio sites will be a high priority in the data request phase of our state consultation process. FirstNet also has been researching and building databases of potential radio site locations, including state and local tower site data, to be used in its radio network planning. For example, FirstNet is working with the Department of Homeland Security's Office of Emergency Communications (OEC) to access and compile information on existing local and state radio sites and government building site data for a FirstNet database, which can be further populated in the coming months as our consultation process moves forward.

The Honorable Cory Gardner

1. As you know, Adams County, Colorado is one of the public safety BTOP grantees. During the last FirstNet Board meeting, a resolution was adopted with the purpose appearing to be resolving last year's suspension of seven public safety BTOP projects in 90 days. As you are well aware, states, localities, and private companies have all have committed resources to now dormant projects in those states. While the resolution adopted at your board meeting seems encouraging, I have some questions about what I've heard regarding the "Special Award Conditions" required to end the suspensions. I understand that there may be an indemnification condition that goes beyond ensuring that any BTOP system is interoperable with the FirstNet network. Can you please explain to me what those indemnification provisions entail? Is it your intent to impose such a condition?

Earlier concerns that FirstNet might seek to impose blanket indemnification terms in its spectrum manager lease agreements (SMLAs) with BTOP projects appear to be based on some very preliminary concepts that were shared during the early stages of NTIA's work following the passage of the Act. I understand that NTIA had evaluated the possibility of obtaining indemnifications as an avenue to lift the partial suspensions prior to the appointment of the FirstNet Board. After appointment of the Board last August, FirstNet initiated direct negotiations with the BTOP public safety grantees on the terms of SMLAs. While FirstNet's negotiations on spectrum lease agreements with several of the BTOP public safety projects have not yet concluded, FirstNet has not and is not seeking to negotiate indemnification terms or conditions that are based on those earlier preliminary concepts. In fact, FirstNet has signed Spectrum Manager Lease Agreements (SMLAs) with two BTOP recipients: the Los Angeles Regional Interoperable Communications Systems (LA-RICS) and the State of New Mexico. Neither agreement contains indemnification terms or conditions.

2. I understand there may also be a condition requiring transfer of the BTOP assets to FirstNet. I have concerns that this may have the effect of forcing a state into a de facto "opt-in" position prior to being presented with a plan to make that decision as required by the law. Is it your intent to impose such a condition? Are these conditions necessary? Will this condition help achieve interoperability?

FirstNet is not seeking to require any transfers of assets as a term or condition of its Spectrum Manager Lease Agreements. In fact, neither of the two SMLAs entered into by FirstNet, with LA-RICS or the State of New Mexico, require or contemplate the transfer of assets from those jurisdictions to FirstNet. These SMLAs fully preserve the respective Governors' options to determine, once presented with the FirstNet plan, their state's participation in the nationwide network (i.e., opt-in or opt-out).

3. Existing rural telecommunications providers have invested in valuable wired and wireless infrastructure, and other technical and operational assets, to serve the most sparsely populated and remotely located areas of our country. How does FirstNet plan to ensure that it does not overbuild existing communications networks and infrastructure? Will public safety be able to roam on an existing commercial broadband network with sufficient capacity and coverage instead of creating an entirely new network?

Ensuring that FirstNet's deployment and operations meet the needs of our nation's first responders in rural and remote areas is a critical and challenging part of our mission. In developing its nationwide deployment plan, FirstNet intends to follow the Act's direction that it utilizes partnerships with existing commercial mobile providers, to the maximum extent economically desirable, in order to find cost-effective opportunities to speed the network's deployment in rural areas.

Beyond ensuring that FirstNet addresses these and other explicit requirements of the Act, reaching rural America is a top priority for FirstNet – one that we are focused on already and our efforts will be further informed through our consultations with state, tribal and local jurisdictions. Our dedicated team for rural coverage includes Tim Bryan, a FirstNet Board member, who is CEO of the National Rural Telecommunications Cooperative and who brings crucial expertise to our tasks. We also intend to collaborate closely with other rural-focused telecommunications and utilities industry groups.

The Honorable Ben Ray Lujan

1. My state of New Mexico was awarded a grant from NTIA's BTOP program for a 700 MHz LTE last mile project as well as upgrades to the state-wide microwave communications tower network that backhauls public safety communications throughout the state. After FirstNet was established, the LTE last mile portion of this project was suspended to ensure that the purchased equipment would be compatible with the FirstNet network architecture. During the last FirstNet Board meeting, a resolution was adopted to resolve the suspension within 90 days. What sort of conditions is FirstNet placing upon New Mexico and the other suspended projects before the suspensions will be lifted and when could I expect to see work resume on building this network?

As you may know, on August 13, 2013, FirstNet announced that it had approved an agreement with the State of New Mexico allowing it to lease access to FirstNet's spectrum. This is the second such agreement between FirstNet and one of the seven public safety Broadband Technology Opportunities Program (BTOP) grantees, whose funding was partially suspended following enactment of the law creating FirstNet. The key issues FirstNet intends to learn from New Mexico's project include: use of a network core located remotely; spectrum management and network use issues along the U.S.-Mexico border; and shared use of a state network with a large number of Federal users.

The agreement between FirstNet and New Mexico is the first step in the process towards lifting the project's partial suspension. New Mexico has requested that NTIA lift the suspension and extend the period of performance for the grant beyond September 30, 2013. FirstNet has formally recommended that NTIA take these actions. FirstNet anticipates a decision by NTIA in the near-term on both of these matters.

2. New Mexico is an extremely large state with a varied topography and sparse population density that presents a challenge to many communications networks. My state is also home to a number of tribal communities which have jurisdiction over an expansive amount of territory throughout the state. In your written testimony, you mention that you have undertaken a "listening tour" with tribal representatives. What lessons have you learned from this tour and how do you plan to implement them?

FirstNet is eager to listen to tribal communities about the wireless coverage and capacity they require for better public safety communications. Tribal participation is essential to FirstNet's research and the eventual design of a network that delivers crucial services to diverse American Indian and Alaska Native populations. The listening tour you referenced was conducted in May and June, and the State of New Mexico participated in FirstNet's workshop in Denver on May 21-22, 2013, and I am pleased that Governor Martinez tapped representatives of NM tribes to participate in these meetings. During these one and a half-day workshops, members of the FirstNet Board and management team, partnering with the National Governors Association, facilitated break-out sessions to gather input, concerns and special requirements from each set of state, local and tribal representatives attending the workshop.

Importantly, this was the first of many working sessions that the FirstNet management team intends to have with state, tribal and local representatives. We anticipate gathering insights and lessons not only from the regional workshops, but from an on-going dialogue with the key state, local and tribal stakeholders over the next several months.

Also, I have recently named FirstNet Board Member Kevin McGinnis to head FirstNet's outreach and education efforts with the sovereign tribes that have a formal government-to-government relationship with the U.S. government. Mr. McGinnis is focusing on gathering tribal requirements, priorities and concerns for design of a nationwide wireless broadband network dedicated to public safety.

3. I understand that FirstNet will be deploying a nationwide network, and I'm fully supportive of that goal. I'm wondering, however, if in your view this deployment precludes states from supplementing the FirstNet network to further enhance their public safety system? For example, do you think states could purchase network control equipment that is not funded by FirstNet provided it's interoperable with FirstNet? And, if not, why not? This could be particularly important in a rural state like mine.

One very important aspect of FirstNet's ongoing consultations with its stakeholders will be gaining the insights of the states, territories, tribes, local governments and their first responders on how to these agencies have the necessary degree of local control on operational issues, consistent with FirstNet's operational control at the national level to ensure the network maintains nationwide interoperability. As a result, it is premature for FirstNet to be making any conclusions regarding the need for states to acquire supplemental network control equipment.

Attachment 2—Member Requests for the Record

During the hearing, Members asked you to provide information for the record. For your convenience, relevant excerpts from the hearing transcript regarding these requests are provided below.

The Honorable Anna Eshoo

1. Is it too early, or has the FirstNet board received threat and vulnerability briefings from agencies such as DHS or NSA?

FirstNet and its federal partners have not yet fully engaged on the range of threat and vulnerability issues that might impact the design, deployment and operations of the network. Given the progress of FirstNet's interim planning efforts, however, we are ramping up more intensive collaborations on such risks with our partners. For example, the Department of Homeland Security has recently shared its Nationwide Public Safety Broadband Network Cyber Infrastructure Risk Assessment with FirstNet, which our technical team is reviewing in detail.