

Questions for the Record Responses for hearing entitled: “Status of the Public Safety Broadband Network,” held on February 2, 2016 before the Subcommittee on Communications and Technology.

Question from Mr. Pallone:

*The inclusion of our nation’s tribes in the deployment of FirstNet will be critical to its overall success. Tribal communities have unique ability public safety needs and we should ensure that reliable coverage to these areas is fully realized. As noted in the attached testimony by the National Congress of American Indians, many tribal leaders are concerned that FirstNet does not have a formal tribal consultation policy or guidance document that ensures tribal governments consult directly with FirstNet instead of state points of contact.*

**1. To what extent are tribal governments currently involved in FirstNet funding, planning and deployment?**

The First Responder Network Authority (FirstNet) appreciates the opportunity to discuss our national and tribal engagement activities and strategy. As you noted, Native American public safety entities and communities are potential future beneficiaries of the nationwide public safety broadband network (NPSBN, Network), and accounting for such stakeholder needs is essential to Network planning and implementation. FirstNet encourages tribal participation in our outreach and planning processes that will shape the establishment and maintenance of the future Network.

In our enabling legislation<sup>1</sup> (Act), FirstNet was established as an independent authority whose mission is to ensure the building, operation, and maintenance of the first high-speed, nationwide wireless broadband network dedicated to public safety. FirstNet will provide a single interoperable platform for emergency and daily public safety communications. In recognition that FirstNet needs to move as quickly as possible toward deployment throughout the 56 states and territories the NPSBN is to serve, the Act directs FirstNet to take all actions necessary to facilitate the building, deployment, and operation of the NPSBN,<sup>2</sup> and requires certain interactions for Network planning purposes to occur through a state’s or territory’s designated single point of contact (SPOC).<sup>3</sup>

Regarding funding for engaging with the tribes, the Act specifies that only States are eligible grant recipients. The Act states, “The Assistant Secretary [of the National Telecommunications and Information Administration (NTIA)], in consultation with the First Responder Network Authority, shall take such action as is necessary to establish a grant program to make grants to States to assist State, regional, tribal, and local jurisdictions to identify, plan, and implement the most efficient and effective

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<sup>1</sup> Middle Class Tax Relief and Job Creation Act of 2012, P.L. 112-96.

<sup>2</sup> Act, Section 6206(b)(1).

<sup>3</sup> Act, Section 6206(c)(2)(B). Specifically, the Act requires that consultation with state, tribal, and local jurisdictions on topics such as core and radio access network buildout, tower placement, Network coverage, hardening/security/reliability/resiliency requirements, selection of Network users, assignment of priority to Network users, and user training needs shall occur between FirstNet and the SPOCs. Act, Section 6206(c)(2).

way for such jurisdictions to utilize and integrate the infrastructure, equipment...”<sup>4</sup> Accordingly, NTIA established the State and Local Implementation Grant Program (SLIGP) in 2013 and awarded grants to 55 states, territories, and the District of Columbia to facilitate coordination and planning among all stakeholders, including tribes.

Regarding planning and deployment of the future Network, our interaction with tribal governments is multilayered. As cited in the National Congress of American Indians (NCAI) testimony, the Act supersedes Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, with respect to consultation related to “State and local planning” of the Network.<sup>5</sup> That said, FirstNet is in full compliance with Section 106 of the National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA), and will directly consult—on a government-to-government basis—with any federally recognized tribe or Native Hawaiian Organization making such a request. In FY15, FirstNet sent letters to all 567 federally-recognized Indian Tribes and Alaska Natives. This was followed up with telephone calls and emails to dozens of tribes that responded and asked to be consulted on the project.

To date, there are approximately 40 tribes that have requested direct consultation with FirstNet. In March 2016, the Federal Register published the initial set of public comment meetings in Alaska, Hawaii and the Pacific and Caribbean territories to review the Programmatic Environmental Impact Statement (PEIS) findings. FirstNet will undertake similar PEIS activities in every jurisdiction that will be served by the NPSBN over the course of this calendar year.

We understand how tribal communities may feel that the SPOC Network planning consultation mandated under the Act is not the manner in which tribes are accustomed to consulting with the federal government. For that reason, FirstNet has created several functions to engage with the tribes directly from the highest levels on our Board and Public Safety Advisory Committee (PSAC), to the working level with the addition of an expanded tribal outreach team.

Unlike other independent authorities or government agencies, FirstNet is governed by an independent Board. One of the Board members has taken on the responsibility to represent the Board and speak with tribes on a nationwide basis to ensure that they are aware of FirstNet and the potential benefits of the Network to their communities, as well as to encourage tribal participation in the Network planning process. In addition, pursuant to the Act, FirstNet established the PSAC – whose members represent organizations from all disciplines of public safety as well as local, state, territorial, and tribal, governments – to assist FirstNet in accomplishing its mission.<sup>6</sup> Under the PSAC, FirstNet created a Tribal Working Group (TWG), which is comprised of 13 international, national, regional, or state organizations with interests in tribal public safety. The TWG meets on a regular basis to provide formal commentary on and informal advice about tribal engagement and consultation, as well as assist with and support these efforts.

To work at the grassroots level, FirstNet recently hired two Native American staff who are responsible for engaging tribal communities across the nation in coordination with the SPOCs. FirstNet

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<sup>4</sup> Act, Section 6302(a).

<sup>5</sup> Act, Section 6206(c)(2).

<sup>6</sup> Act, Section 6205.

recognizes that engagement with the Native American public safety entities and communities is important to achieving its overall mission and to improving emergency response on tribal lands, and that there are real constraints on effectively capturing tribal input. For example, some tribes have not felt comfortable sharing data on public safety incident responses. However, this data is important to the planning and the deployment of the future NPSBN, to ensure that the Network will cover areas where public safety needs service.

We hope that through expanded, more personalized outreach efforts, the FirstNet tribal team and SPOCs will provide education about our processes and the value of the Network to tribal communities to ease tribal concerns. For example, with additional staff, FirstNet been able to work with the SPOCs to support direct site visits to tribes on their lands to provide customized listening sessions, and are participating in regional tribal meetings to discuss the value of being involved with the FirstNet process. Additionally, FirstNet is considering the development of a tribal consultation policy, consistent with the mandates of the Act.

FirstNet is mindful that public safety advocates have been persistently asking for the Network since the 9/11 Commission report recommendations were released in July 2004.<sup>7</sup> In this regard, we are moving as expeditiously and responsibly as we can, while ensuring necessary involvement with public safety and complying with the Act and other applicable laws. Tribal concerns are a priority for FirstNet, and the above actions are intended to ease tribal concerns while increasing participation in planning and subsequent adoption.

We appreciate your continued interest in FirstNet. If there are any further questions, please contact FirstNet's Director of Government Affairs, Edward Parkinson, at [REDACTED]  
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<sup>7</sup> "9/11 Commission Report", available at <http://govinfo.library.unt.edu/911/report/index.htm> (last accessed on March 5, 2016).