

Infrastructure Provisions of the Middle Class Tax Relief and Job Creation Act of 2012
P.L. 112-96

SEC. 6206. POWERS, DUTIES, AND RESPONSIBILITIES OF THE FIRST RESPONDER NETWORK AUTHORITY.

(a) **GENERAL POWERS.**--The First Responder Network Authority shall have the authority to do the following:

- (1) To exercise, through the actions of its Board, all powers specifically granted by the provisions of this subtitle, and such incidental powers as shall be necessary.
- (2) To hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the First Responder Network Authority considers necessary to carry out its responsibilities and duties.
- (3) To obtain grants and funds from and make contracts with individuals, private companies, organizations, institutions, and Federal, State, regional, and local agencies.
- (4) To accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, for the purposes of aiding or facilitating the work of the First Responder Network Authority.
- (5) To spend funds under paragraph (3) in a manner authorized by the Board, but only for purposes that will advance or enhance public safety communications consistent with this title.
- (6) To take such other actions as the First Responder Network Authority (through the Board) may from time to time determine necessary, appropriate, or advisable to accomplish the purposes of this title.

(b) **DUTY AND RESPONSIBILITY TO DEPLOY AND OPERATE A NATIONWIDE PUBLIC SAFETY BROADBAND NETWORK.**--

(1) IN GENERAL.--**The First Responder Network Authority shall hold the single public safety wireless license granted *212 under section 6201 and take all actions necessary to ensure the building, deployment, and operation of the nationwide public safety broadband network, in consultation with Federal, State, tribal, and local public safety entities, the Director of NIST, the Commission, and the public safety advisory committee established in section 6205(a), including by, at a minimum--**

(A) ensuring nationwide standards for use and access of the network;

(B) issuing open, transparent, and competitive requests for proposals to private sector entities for the purposes of building, operating, and maintaining the network that use, without materially changing, the minimum technical requirements developed under section 6203;

(C) encouraging that such requests leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network;
and

(D) managing and overseeing the implementation and execution of contracts or agreements with non-Federal entities to build, operate, and maintain the network.

(2) **REQUIREMENTS.**--In carrying out the duties and responsibilities of this subsection, including issuing requests for proposals, the First Responder Network Authority shall--

(A) ensure the safety, security, and resiliency of the network, including requirements for protecting and monitoring the network to protect against cyberattack;

(B) promote competition in the equipment market, including devices for public safety communications, by requiring that equipment for use on the network be--

(i) built to open, non-proprietary, commercially available standards;

(ii) capable of being used by any public safety entity and by multiple vendors across all public safety broadband networks operating in the 700 MHz band; and

(iii) backward-compatible with existing commercial networks to the extent that such capabilities are necessary and technically and economically reasonable;

(C) promote integration of the network with public safety answering points or their equivalent;
and

(D) address special considerations for areas or regions with unique homeland security or national security needs.

(3) RURAL COVERAGE.--In carrying out the duties and responsibilities of this subsection, including issuing requests for proposals, the nationwide, interoperable public safety broadband network, consistent with the license granted under section 6201, shall require deployment phases with substantial rural coverage milestones as part of each phase of the construction and deployment of the network. To the maximum extent economically desirable, such proposals shall include partnerships with existing commercial mobile providers to utilize cost-effective opportunities to speed deployment in rural areas.

(4) EXECUTION OF AUTHORITY.--In carrying out the duties and responsibilities of this subsection, the First Responder Network Authority may--

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(A) obtain grants from and make contracts with individuals, private companies, and Federal, State, regional, and local agencies;

(B) hire or accept voluntary services of consultants, experts, advisory boards, and panels to aid the First Responder Network Authority in carrying out such duties and responsibilities;

(C) receive payment for use of--

(i) network capacity licensed to the First Responder Network Authority; and

(ii) network infrastructure constructed, owned, or operated by the First Responder Network Authority; and

(D) take such other actions as may be necessary to accomplish the purposes set forth in this subsection.

(c) OTHER SPECIFIC DUTIES AND RESPONSIBILITIES.--

(1) ESTABLISHMENT OF NETWORK POLICIES.--In carrying out the requirements under subsection (b), the First Responder Network Authority shall develop--

(A) requests for proposals with appropriate--

(i) timetables for construction, including by taking into consideration the time needed to build out to rural areas and the advantages offered through partnerships with existing commercial providers under paragraph (3);

(ii) coverage areas, including coverage in rural and nonurban areas;

(iii) service levels;

(iv) performance criteria; and

(v) other similar matters for the construction and deployment of such network;

(B) the technical and operational requirements of the network;

(C) practices, procedures, and standards for the management and operation of such network;

(D) terms of service for the use of such network, including billing practices; and

(E) ONGOING COMPLIANCE REVIEW AND MONITORING OF THE.--

(i) management and operation of such network;

(ii) practices and procedures of the entities operating on and the personnel using such network;
and

(iii) necessary training needs of network operators and users.

(2) STATE AND LOCAL PLANNING.--

(A) REQUIRED CONSULTATION.--In developing requests for proposals and otherwise carrying out its responsibilities under this Act, the First Responder Network Authority shall consult with regional, State, tribal, and local jurisdictions regarding the distribution and expenditure of any amounts required to carry out the policies established under paragraph (1), including with regard to the--

(i) construction of a core network and any radio access network build out;

(ii) placement of towers;

(iii) coverage areas of the network, whether at the regional, State, tribal, or local level;

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(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 established under subsection (b); and

(vii) training needs of local users.

(B) METHOD OF CONSULTATION.--The consultation required under subparagraph (A) shall occur between the First Responder Network Authority and the single officer or governmental body designated under section 6302(d).

(3) LEVERAGING EXISTING INFRASTRUCTURE.--In carrying out the requirement under subsection (b), the First Responder Network Authority shall enter into agreements to utilize, to the maximum extent economically desirable, existing--

(A) commercial or other communications infrastructure; and

(B) Federal, State, tribal, or local infrastructure.

(4) MAINTENANCE AND UPGRADES.--The First Responder Network Authority shall ensure the maintenance, operation, and improvement of the nationwide public safety broadband network, including by ensuring that the First Responder Network Authority updates and revises any policies established under paragraph (1) to take into account new and evolving technologies.

(5) ROAMING AGREEMENTS.--The First Responder Network Authority shall negotiate and enter into, as it determines appropriate, roaming agreements with commercial network providers to allow the nationwide public safety broadband network to roam onto commercial networks and gain prioritization of public safety communications over such networks in times of an emergency.

(6) NETWORK INFRASTRUCTURE AND DEVICE CRITERIA.--The Director of NIST, in consultation with the First Responder Network Authority and the Commission, shall ensure the development of a list of certified devices and components meeting appropriate protocols and standards for public safety entities and commercial vendors to adhere to, if such entities or vendors seek to have access to, use of, or compatibility with the nationwide public safety broadband network.

(7) REPRESENTATION BEFORE STANDARD SETTING ENTITIES.--The First Responder Network Authority, in consultation with the Director of NIST, the Commission, and the public safety advisory committee established under section 6205(a), shall represent the interests of public safety users of the nationwide public safety broadband network before any proceeding, negotiation, or other matter in which a standards organization, standards body, standards development organization, or any other recognized standards-setting entity addresses the development of standards relating to interoperability.

(8) PROHIBITION ON NEGOTIATION WITH FOREIGN GOVERNMENTS.--The First Responder Network Authority shall not have the authority to negotiate or enter into any agreements with a foreign government on behalf of the United States.

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(d) EXEMPTION FROM CERTAIN LAWS.--Any action taken or decisions made by the First Responder Network Authority shall be exempt from the requirements of--

(1) section 3506 of title 44, United States Code (commonly referred to as the Paperwork Reduction Act);

(2) chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act); and

(3) chapter 6 of title 5, United States Code (commonly referred to as the Regulatory Flexibility Act).

(e) NETWORK CONSTRUCTION FUND.--

(1) ESTABLISHMENT.--There is established in the Treasury of the United States a fund to be known as the “Network Construction Fund”.

(2) USE OF FUND.--Amounts deposited into the Network Construction Fund shall be used by the--

(A) First Responder Network Authority to carry out this section, except for administrative expenses; and

(B) NTIA to make grants to States under section 6302(e)(3)(C)(iii)(I).

(f) TERMINATION OF AUTHORITY.--The authority of the First Responder Network Authority shall terminate on the date that is 15 years after the date of enactment of this title.

(g) GAO REPORT.--Not later than 10 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on what action Congress should take regarding the 15–year sunset of authority under subsection (f).

SEC. 6409. WIRELESS FACILITIES DEPLOYMENT.

(a) FACILITY MODIFICATIONS.--

(1) IN GENERAL.--Notwithstanding section 704 of the Telecommunications Act of 1996 (Public Law 104–104) or any other provision of law, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.

(2) ELIGIBLE FACILITIES REQUEST.--For purposes of this subsection, the term “eligible facilities request” means any *233 request for modification of an existing wireless tower or base station that involves--

(A) collocation of new transmission equipment;

(B) removal of transmission equipment; or

(C) replacement of transmission equipment.

(3) APPLICABILITY OF ENVIRONMENTAL LAWS.--Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of the National Historic Preservation Act or the National Environmental Policy Act of 1969.

(b) FEDERAL EASEMENTS AND RIGHTS-OF-WAY.--

(1) GRANT.--If an executive agency, a State, a political subdivision or agency of a State, or a person, firm, or organization applies for the grant of an easement or right-of-way to, in, over, or on a building or other property owned by the Federal Government for the right to install, construct, and maintain wireless service antenna structures and equipment and backhaul transmission equipment, the executive agency having control of the building or other property may grant to the applicant, on behalf of the Federal Government, an easement or right-of-way to perform such installation, construction, and maintenance.

(2) APPLICATION.--The Administrator of General Services shall develop a common form for applications for easements and rights-of-way under paragraph (1) for all executive agencies that shall be used by applicants with respect to the buildings or other property of each such agency.

(3) FEE.--

(A) IN GENERAL.--Notwithstanding any other provision of law, the Administrator of General Services shall establish a fee for the grant of an easement or right-of-way pursuant to paragraph (1) that is based on direct cost recovery.

(B) EXCEPTIONS.--The Administrator of General Services may establish exceptions to the fee amount required under subparagraph (A)--

(i) in consideration of the public benefit provided by a grant of an easement or right-of-way; and

(ii) in the interest of expanding wireless and broadband coverage.

(4) USE OF FEES COLLECTED.--Any fee amounts collected by an executive agency pursuant to paragraph (3) may be made available, as provided in appropriations Acts, to such agency to cover the costs of granting the easement or right-of-way.

(c) MASTER CONTRACTS FOR WIRELESS FACILITY SITINGS.--

(1) IN GENERAL.--Notwithstanding section 704 of the Telecommunications Act of 1996 or any other provision of law, and not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall--

(A) develop 1 or more master contracts that shall govern the placement of wireless service antenna structures on buildings and other property owned by the Federal Government; and

(B) in developing the master contract or contracts, standardize the treatment of the placement of wireless service antenna structures on building rooftops or facades, the placement of wireless service antenna equipment on *234 rooftops or inside buildings, the technology used in connection with wireless service antenna structures or equipment placed on Federal buildings and other property, and any other key issues the Administrator of General Services considers appropriate.

(2) APPLICABILITY.--The master contract or contracts developed by the Administrator of General Services under paragraph (1) shall apply to all publicly accessible buildings and other property owned by the Federal Government, unless the Administrator of General Services decides that issues with respect to the siting of a wireless service antenna structure on a specific building or other property warrant nonstandard treatment of such building or other property.

(3) APPLICATION.--The Administrator of General Services shall develop a common form or set of forms for wireless service antenna structure siting applications under this subsection for all executive agencies that shall be used by applicants with respect to the buildings and other property of each such agency.

(d) EXECUTIVE AGENCY DEFINED.--In this section, the term “executive agency” has the meaning given such term in section 102 of title 40, United States Code.