

111TH CONGRESS
2D SESSION

H. R. 5907

To require the National Telecommunications and Information Administration to conduct a competition to award grants for the development of nonstationary radio over Internet protocol devices that support mission-critical broadband voice and data communications of public safety personnel, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2010

Ms. HARMAN (for herself and Mr. SHIMKUS) introduced the following bill;
which was referred to the Committee on Energy and Commerce

A BILL

To require the National Telecommunications and Information Administration to conduct a competition to award grants for the development of nonstationary radio over Internet protocol devices that support mission-critical broadband voice and data communications of public safety personnel, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Next Generation Pub-
5 lic Safety Device Act of 2010”.

1 **SEC. 2. PUBLIC SAFETY ROIP DEVICE DEVELOPMENT COM-**
2 **PETITION.**

3 (a) ESTABLISHMENT.—The Assistant Secretary, in
4 coordination with the Commission, the Director of the Na-
5 tional Institute of Standards and Technology, and the Di-
6 rector of the Office of Emergency Communications in the
7 Department of Homeland Security, shall conduct a com-
8 petition to award grants to eligible entities for the develop-
9 ment of nonstationary radio over Internet protocol devices
10 that support mission-critical broadband voice and data
11 communications of public safety personnel.

12 (b) WORKING GROUP.—

13 (1) COMPOSITION.—The Assistant Secretary
14 shall establish a working group composed of—

15 (A) a representative of the Commission,
16 the Director of the National Institute of Stand-
17 ards and Technology, and the Director of the
18 Office of Emergency Communications in the
19 Department of Homeland Security; and

20 (B) such other public or private stake-
21 holders with technical expertise in the develop-
22 ment of emergency communications devices as
23 the representative of the Commission considers
24 appropriate.

25 (2) DUTIES.—The working group shall provide
26 the Assistant Secretary with advice and technical as-

1 sistance in conducting the competition under this
2 section.

3 (3) SUPPORT SERVICES.—The Assistant Sec-
4 retary shall provide the working group with the ad-
5 ministrative, professional, and technical support re-
6 quired by the working group to carry out its duties.

7 (4) DURATION.—The working group shall ter-
8 minate not later than the earlier of—

9 (A) the date that is 15 days after the date
10 of the submission by the Comptroller General of
11 the United States of the report required by sub-
12 section (e)(3); or

13 (B) the date that is 6 years after the date
14 of the enactment of this section.

15 (c) DEVICE REQUIREMENTS.—

16 (1) IN GENERAL.—The Assistant Secretary, in
17 coordination with the working group, shall establish
18 requirements for RoIP devices developed, in whole or
19 in part, using a grant under this section.

20 (2) CONTENT.—The requirements established
21 under paragraph (1) shall include—

22 (A) an identification of specific commu-
23 nication needs of public safety personnel and
24 any corresponding characteristics or capabilities
25 of the devices for meeting such needs; and

1 (B) such characteristics and capabilities of
2 the devices as will ensure—

3 (i) delivery of communications in a
4 real-time manner;

5 (ii) reliability of the delivery of com-
6 munications under adverse conditions;

7 (iii) sufficient clarity of transmission
8 to permit public safety personnel to easily
9 comprehend the content of communica-
10 tions; and

11 (iv) full interoperability among dif-
12 ferent types and brands of RoIP devices
13 used by public safety personnel.

14 (d) GRANT PROCESS.—

15 (1) 3-STAGE PROCESS.—The Assistant Sec-
16 retary shall establish a 3-stage process for awarding
17 grants to eligible entities under this section.

18 (2) AWARD OF GRANTS.—The Secretary may
19 only award a grant in a stage to an eligible entity
20 that—

21 (A) submits a bid meeting the specifica-
22 tions developed under paragraph (3) for such
23 stage;

24 (B) provides the Assistant Secretary with
25 an assurance that the eligible entity will use

1 grant funds to develop a RoIP device in accord-
2 ance with the specifications included in such
3 bid;

4 (C) in the case of a grant in stage 1 or 2
5 for the development of a device, provides the
6 Assistant Secretary with an assurance that the
7 eligible entity will submit in good faith a bid for
8 a grant in stage 2 or 3, respectively, for the de-
9 velopment of such device; and

10 (D) in the case of a grant in stage 2 or 3
11 for the development of a device, has received a
12 grant in stage 1 or 2, respectively, for the de-
13 velopment of such device.

14 (3) BID SPECIFICATIONS FOR EACH STAGE.—

15 (A) IN GENERAL.—The Assistant Sec-
16 retary shall develop specifications for bids sub-
17 mitted for grants in each stage and shall ensure
18 that such specifications are—

19 (i) based on the requirements estab-
20 lished under subsection (c)(1); and

21 (ii) provide for reasonable progress
22 from stage to stage toward the commercial
23 production of RoIP devices that meet such
24 requirements by eligible entities receiving
25 grants in stage 3.

1 (B) SPECIFICATIONS FOR STAGE 1.—The
2 specifications for stage-1 bids shall include a re-
3 quirement that the eligible entity provide the
4 Assistant Secretary with an assurance that the
5 eligible entity will use grant funds to develop
6 the prototype referred to in subparagraph (C)(i)
7 for submission with the stage-2 bid of the enti-
8 ty.

9 (C) SPECIFICATIONS FOR STAGE 2.—The
10 specifications for stage-2 bids shall include the
11 following:

12 (i) A requirement that the eligible en-
13 tity submit a prototype of the device being
14 developed.

15 (ii) A requirement that the eligible en-
16 tity provide the Assistant Secretary with
17 an assurance that the eligible entity will
18 use grant funds to develop the plan re-
19 ferred to in subparagraph (D)(i) for sub-
20 mission with the stage-3 bid of the entity
21 and to prepare to commercially produce
22 the device in accordance with the plan.

23 (iii) A requirement that the eligible
24 entity submit such information as the As-
25 sistant Secretary may require regarding

1 the capability of the eligible entity to com-
2 mercially produce, distribute, and market
3 the device.

4 (D) SPECIFICATIONS FOR STAGE 3.—The
5 specifications for stage-3 bids shall include the
6 following:

7 (i) A requirement that the eligible en-
8 tity submit a plan for the commercial pro-
9 duction of the device by the entity that
10 demonstrates that the device, as produced,
11 will meet the requirements established
12 under subsection (c)(1).

13 (ii) A requirement that the eligible en-
14 tity provide the Assistant Secretary with
15 an assurance that the eligible entity will—

16 (I) use grant funds to commer-
17 cially produce the device in accordance
18 with the plan submitted under clause
19 (i); and

20 (II) apply for award of the label
21 under section 3.

22 (iii) A requirement that the eligible
23 entity submit such information as the As-
24 sistant Secretary may require regarding
25 the capability of the eligible entity to com-

1 mercially produce, distribute, and market
2 the device.

3 (4) ADDITIONAL FACTORS FOR CONSIDER-
4 ATION.—In making a grant under this section, the
5 Assistant Secretary shall consider, in addition to the
6 requirements established under subsection (c)(1) and
7 the bid specifications established under paragraph
8 (3) for the stage involved, the following factors:

9 (A) The extent to which the grant will en-
10 courage competition in the market for the de-
11 vice being developed.

12 (B) The estimated cost at which public
13 safety personnel will be able to purchase such
14 device.

15 (C) The potential contribution to public
16 safety of such device.

17 (D) Whether such device is capable of uti-
18 lizing, in addition to the portions of the electro-
19 magnetic spectrum listed in subparagraphs (A)
20 and (B) of section 4(8), the following portions
21 of the spectrum:

22 (i) Public Safety Broadband License,
23 Guard Band (the electromagnetic spectrum
24 between 768 and 769 megahertz, inclusive,

1 and between 798 and 799 megahertz, in-
2 clusive).

3 (ii) Public Safety, Narrowband Net-
4 work (the electromagnetic spectrum be-
5 tween 769 and 775 megahertz, inclusive,
6 and between 799 and 805 megahertz, in-
7 clusive).

8 (E) Such other factors as the Assistant
9 Secretary considers appropriate to promote the
10 public interest.

11 (5) PRIORITY.—In making a grant under this
12 section, the Assistant Secretary shall give priority to
13 bids for the development of devices that are inter-
14 operable across—

15 (A) multiple commercial bands of the elec-
16 tromagnetic spectrum; and

17 (B) multiple communications profiles.

18 (6) TIMING.—The Assistant Secretary shall
19 structure the timing of each stage as the Assistant
20 Secretary considers appropriate, but the Assistant
21 Secretary shall release the solicitation for stage-1
22 bids not later than 8 months after the date of the
23 enactment of this section and shall ensure that all
24 grants in stage 3 have been awarded not later than

1 4 years after the date of the award of the 1st grant
2 in stage 1.

3 (7) NUMBER AND AMOUNT OF GRANTS.—

4 (A) NUMBER.—

5 (i) 1 GRANT PER DEVICE PER
6 STAGE.—The Assistant Secretary may not
7 award more than 1 grant per device per
8 stage.

9 (ii) NUMBER OF STAGE-3 GRANTS.—

10 The Assistant Secretary shall award not
11 fewer than 4 and not more than 7 grants
12 in stage 3.

13 (B) AMOUNT.—

14 (i) PER STAGE.—A grant for the de-
15 velopment of a device may not exceed
16 \$4,000,000 per stage.

17 (ii) PER DEVICE.—The Assistant Sec-
18 retary may not award more than a total of
19 \$8,000,000 in all 3 stages for the develop-
20 ment of a single device.

21 (8) CONSULTATION WITH WORKING GROUP.—

22 The Assistant Secretary shall consult with the work-
23 ing group in carrying out this subsection.

24 (e) GAO AUDIT.—

1 (1) IN GENERAL.—The Comptroller General of
2 the United States shall conduct an audit of the com-
3 petition conducted under this section.

4 (2) FACTORS FOR EVALUATION.—In conducting
5 such audit, the Comptroller General shall evaluate
6 the following:

7 (A) The extent to which grants under this
8 section were awarded on the basis of the merits
9 of the bids submitted, including whether the re-
10 quirements established under subsection (c)(1)
11 were sufficient to ensure that the devices devel-
12 oped with such grants adequately support mis-
13 sion-critical broadband voice and data commu-
14 nications of public safety personnel.

15 (B) The extent to which the grants encour-
16 aged competition in the market for the devices.

17 (C) The effect of the grants on the cost at
18 which public safety personnel are able to pur-
19 chase the devices.

20 (D) The contribution to public safety of
21 the devices.

22 (E) Such other factors as the Comptroller
23 General considers appropriate.

24 (3) REPORT TO CONGRESS.—Not later than 5
25 years after the date of the enactment of this section,

1 the Comptroller General shall submit to Congress a
2 report on the findings of such audit.

3 **SEC. 3. AWARD OF LABEL BY FCC.**

4 (a) IN GENERAL.—The Commission shall establish a
5 voluntary labeling program to identify nonstationary RoIP
6 devices that meet such criteria as the Commission con-
7 siderers appropriate for the support of mission-critical
8 broadband voice and data communications of public safety
9 personnel.

10 (b) ESTABLISHMENT OF LABEL.—Under such pro-
11 gram, the Commission shall determine a name and design
12 for a label (in this section referred to as the “label”) for
13 any RoIP device that meets the criteria described in sub-
14 section (a) and shall take the necessary steps to register
15 the label as a mark under the Act entitled “An Act to
16 provide for the registration and protection of trademarks
17 used in commerce, to carry out the provisions of certain
18 international conventions, and for other purposes”, ap-
19 proved March 17, 1946 (commonly referred to as the
20 Trademark Act of 1946; 15 U.S.C. 1051 et seq.).

21 (c) AWARD OF LABEL.—

22 (1) APPLICATION.—Under the program, the
23 Commission shall establish a process under which an
24 entity manufacturing, marketing, or selling a RoIP

1 device may apply for the award of the label for such
2 device.

3 (2) AWARD.—Upon application for a device
4 under paragraph (1), the Commission shall award
5 the label to such device if the Commission deter-
6 mines that the device meets the criteria described in
7 subsection (a).

8 (3) EFFECT.—An entity manufacturing, mar-
9 keting, or selling a RoIP device awarded the label
10 may display the label and otherwise indicate that the
11 device has been awarded the label on the device and
12 in or on any materials accompanying the device or
13 any advertising with respect to the device.

14 (d) REVISION OF CRITERIA.—The Commission shall
15 periodically review the criteria described in subsection (a)
16 and revise the criteria as the Commission considers appro-
17 priate.

18 (e) ANNUAL COMPLIANCE CERTIFICATION.—

19 (1) IN GENERAL.—An entity displaying or oth-
20 erwise indicating that a RoIP device has been
21 awarded the label shall annually certify to the Com-
22 mission that the device continues to meet the criteria
23 described in subsection (a), including any revisions
24 to the criteria since the label was awarded.

1 (2) WITHDRAWAL OF AWARD OF LABEL.—The
2 Commission shall withdraw the award of the label
3 with respect to a device if—

4 (A) for a year, a certification required by
5 paragraph (1) for the device is not submitted
6 by any of the entities required to submit such
7 certification; or

8 (B) the Commission otherwise finds that
9 the device no longer meets the criteria described
10 in subsection (a), including any revisions to the
11 criteria since the label was awarded.

12 (f) REGULATIONS.—The Commission may promul-
13 gate regulations to promote the effective use of the label
14 and to prevent the misuse of the label.

15 (g) ONLINE DATABASE.—The Commission shall
16 maintain an electronic database of the devices for which
17 the award of the label is in effect and shall make such
18 database publicly available on an appropriate Internet
19 website.

20 **SEC. 4. DEFINITIONS.**

21 In this Act:

22 (1) ASSISTANT SECRETARY.—The term “Assist-
23 ant Secretary” means the Assistant Secretary of
24 Commerce for Communications and Information.

1 (2) BROADBAND.—The term “broadband” has
2 the same meaning as under the Broadband Tech-
3 nology Opportunities Program established under sec-
4 tion 6001 of the American Recovery and Reinvest-
5 ment Act of 2009 (47 U.S.C. 1305).

6 (3) COMMISSION.—The term “Commission”
7 means the Federal Communications Commission.

8 (4) COMMUNICATIONS PROFILE.—The term
9 “communications profile” means a configuration of
10 technology or equipment that supports broadband
11 communications by radio through the public
12 switched telephone network, the Internet, or any
13 other public network. The radio-air interface con-
14 figuration used by a particular communications pro-
15 file is part of such profile and is one of the charac-
16 teristics that distinguishes such profile from a dif-
17 ferent communications profile. A communications
18 profile can be implemented using radio equipment
19 designed to support specific, fixed profiles or radio
20 equipment capable of supporting an indefinite num-
21 ber of profiles through software programming
22 changes.

23 (5) ELIGIBLE ENTITY.—The term “eligible enti-
24 ty” means an entity that submits a bid for a grant
25 under section 2.

1 (6) MISSION-CRITICAL.—The term “mission-
2 critical”, used with respect to communications be-
3 tween 2 or more public safety personnel, means that,
4 in order for such personnel to protect life or prop-
5 erty or the safety of such personnel, such commu-
6 nications must be delivered in a real-time manner
7 and with sufficient quality and clarity for easy com-
8 prehension by such personnel, regardless of the con-
9 ditions under which the communications are sent or
10 received.

11 (7) PUBLIC SAFETY PERSONNEL.—The term
12 “public safety personnel” means any Federal, State,
13 or local law enforcement officer, firefighter, or pro-
14 vider of emergency medical services or communica-
15 tions center personnel.

16 (8) RADIO OVER INTERNET PROTOCOL DEVICE
17 OR ROIP DEVICE.—The term “radio over Internet
18 protocol device” or “RoIP device” means a device
19 that is capable of passing audio and other control
20 functions of a radio system across an Internet pro-
21 tocol-enabled network utilizing, at a minimum, the
22 following portions of the electromagnetic spectrum:

23 (A) D Block (the electromagnetic spectrum
24 between 758 and 763 megahertz, inclusive, and
25 between 788 and 793 megahertz, inclusive).

1 (B) Public Safety Broadband Network (the
2 electromagnetic spectrum between 763 and 768
3 megahertz, inclusive, and between 793 and 798
4 megahertz, inclusive).

5 **SEC. 5. FUNDING.**

6 (a) PUBLIC SAFETY COMMUNICATIONS DEVICES
7 FUND.—

8 (1) ESTABLISHMENT.—There is established in
9 the Treasury of the United States a fund to be
10 known as the Public Safety Communications Devices
11 Fund.

12 (2) PURPOSE.—The Assistant Secretary and
13 the Commission shall use the funds deposited in the
14 Public Safety Communications Devices Fund to
15 carry out sections 2 and 3, respectively.

16 (3) CREDIT.—

17 (A) BORROWING AUTHORITY.—The Assist-
18 ant Secretary and the Commission may borrow
19 from the general fund of the Treasury begin-
20 ning on October 1, 2010, such sums as may be
21 necessary, but not to exceed a total of
22 \$70,000,000, to implement sections 2 and 3, re-
23 spectively.

24 (B) REIMBURSEMENT.—The Secretary of
25 the Treasury shall reimburse the general fund

1 of the Treasury, without interest, for any
2 amounts borrowed under subparagraph (A) as
3 funds are deposited into the Public Safety Com-
4 munications Devices Fund, but in no case later
5 than September 30, 2015.

6 (b) DEPOSITS.—Notwithstanding subparagraphs (A)
7 and (D) of paragraph (8) of section 309(j) of the Commu-
8 nications Act of 1934 (47 U.S.C. 309(j)), the Secretary
9 of the Treasury shall—

10 (1) deposit in the Public Safety Communica-
11 tions Devices Fund \$70,000,000 of the proceeds (in-
12 cluding deposits and upfront payments from success-
13 ful bidders) from the auction of spectrum under
14 such section during the period beginning on October
15 1, 2012, and ending on September 30, 2015; and

16 (2) make the funds deposited under paragraph
17 (1) available to the Assistant Secretary and the
18 Commission without further appropriation.

19 (c) TRANSFER OF UNUSED FUNDS.—The Secretary
20 of the Treasury shall transfer to the general fund of the
21 Treasury any funds remaining in the Public Safety Com-
22 munications Devices Fund after September 30, 2015.

23 (d) EXTENSION OF AUCTION AUTHORITY.—Section
24 309(j)(11) of the Communications Act of 1934 (47 U.S.C.

1 309(j)(11)) is amended by striking “2012” and inserting
2 “2015”.

