

- (i) 4 members shall serve for a term of 3 years;
- (ii) 4 members shall serve for a term of 2 years; and
- (iii) 4 members shall serve for a term of 1 year.

**(3) Vacancies**

A vacancy in the membership of the Board shall not affect the Board's powers, and shall be filled in the same manner as the original member was appointed.

**(d) Chair**

**(1) Selection**

The Secretary of Commerce shall select, from among the members of the Board appointed under subsection (b)(1)(D), an individual to serve for a 2-year term as Chair of the Board.

**(2) Consecutive terms**

An individual may not serve for more than 2 consecutive terms as Chair of the Board.

**(e) Meetings**

**(1) Frequency**

The Board shall meet—

- (A) at the call of the Chair; and
- (B) not less frequently than once each quarter.

**(2) Transparency**

Meetings of the Board, including any committee of the Board, shall be open to the public. The Board may, by majority vote, close any such meeting only for the time necessary to preserve the confidentiality of commercial or financial information that is privileged or confidential, to discuss personnel matters, or to discuss legal matters affecting the First Responder Network Authority, including pending or potential litigation.

**(f) Quorum**

Eight members of the Board shall constitute a quorum, including at least 6 of the members appointed under subsection (b)(1)(D).

**(g) Compensation**

**(1) In general**

The members of the Board appointed under subsection (b)(1)(D) shall be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which such members are engaged in performing a function of the Board.

**(2) Prohibition on compensation**

A member of the Board appointed under subparagraphs (A) through (C) of subsection (b)(1) shall serve without additional pay, and shall not otherwise benefit, directly or indirectly, as a result of their service to the First Responder Network Authority, but shall be allowed a per diem allowance for travel expenses, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, while away from the home or regular place of business of the member in the performance of the duties of the First Responder Network Authority.

(Pub. L. 112-96, title VI, § 6204, Feb. 22, 2012, 126 Stat. 208.)

**Editorial Notes**

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (g)(1), is set out under section 5315 of Title 5, Government Organization and Employees.

**§ 1425. Advisory committees of the First Responder Network Authority**

**(a) Advisory committees**

The First Responder Network Authority—

(1) shall establish a standing public safety advisory committee to assist the First Responder Network Authority in carrying out its duties and responsibilities under this subchapter; and

(2) may establish additional standing or ad hoc committees, panels, or councils as the First Responder Network Authority determines are necessary.

**(b) Selection of agents, consultants, and experts**

**(1) In general**

The First Responder Network Authority shall select parties to serve as its agents, consultants, or experts in a fair, transparent, and objective manner, and such agents may include a program manager to carry out certain of the duties and responsibilities of deploying and operating the nationwide public safety broadband network described in subsections (b) and (c) of section 1426 of this title.

**(2) Binding and final**

If the selection of an agent, consultant, or expert satisfies the requirements under paragraph (1), the selection of that agent, consultant, or expert shall be final and binding.

(Pub. L. 112-96, title VI, § 6205, Feb. 22, 2012, 126 Stat. 211.)

**§ 1426. 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 subchapter, 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 chapter.

(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 chapter.

**(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 under section 1421 of this title 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 1425(a) of this title, 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 1423 of this title;

(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 re-

quests for proposals, the nationwide, interoperable public safety broadband network, consistent with the license granted under section 1421 of this title, 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—

(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 chapter, 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;
- (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 1442(d) of this title.

**(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 ven-

dors 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 1425(a) of this title, 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.

**(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 (commonly referred to as the Paperwork Reduction Act);
- (2) chapter 5 of title 5 (commonly referred to as the Administrative Procedures Act); and
- (3) chapter 6 of title 5 (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 1442(e)(3)(C)(iii)(I) of this title.

**(f) Termination of Authority**

The authority of the First Responder Network Authority shall terminate on the date that is 15 years after February 22, 2012.

**(g) GAO report**

Not later than 10 years after February 22, 2012, 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).

(Pub. L. 112–96, title VI, §6206, Feb. 22, 2012, 126 Stat. 211.)

**Editorial Notes**

## REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(2)(A), was in the original “this Act”, and was translated as reading

“this title”, meaning title VI of Pub. L. 112-96, Feb. 22, 2012, 126 Stat. 201, to reflect the probable intent of Congress. Title VI enacted this chapter and section 929 of this title, amended sections 309, 337, 614, 902, 923, 928, and 942 of this title, and enacted provisions set out as a note under section 1401 of this title.

**§ 1427. Initial funding for the First Responder Network Authority**

**(a) Borrowing authority**

Prior to the deposit of proceeds into the Public Safety Trust Fund from the incentive auctions to be carried out under section 309(j)(8)(G) of this title or the auction of spectrum pursuant to section 1451 of this title, the NTIA may borrow from the Treasury such sums as may be necessary, but not to exceed \$2,000,000,000, to implement this subchapter. The NTIA shall reimburse the Treasury, without interest, from funds deposited into the Public Safety Trust Fund.

**(b) Prohibition**

**(1) In general**

Administrative expenses of the First Responder Network Authority may not exceed \$100,000,000 during the 10-year period beginning on February 22, 2012.

**(2) Definition**

For purposes of this subsection, the term “administrative expenses” does not include the costs incurred by the First Responder Network Authority for oversight and audits to protect against waste, fraud, and abuse.

(Pub. L. 112-96, title VI, § 6207, Feb. 22, 2012, 126 Stat. 215.)

**Editorial Notes**

REFERENCES IN TEXT

Section 1451, referred to in subsec. (a), was in the original “section 6401” and means section 6401 of Pub. L. 112-96, which enacted section 1451 of this title and amended section 309 of this title.

**§ 1428. Permanent self-funding; duty to assess and collect fees for network use**

**(a) In general**

Notwithstanding section 337 of this title, the First Responder Network Authority is authorized to assess and collect the following fees:

**(1) Network user fee**

A user or subscription fee from each entity, including any public safety entity or secondary user, that seeks access to or use of the nationwide public safety broadband network.

**(2) Lease fees related to network capacity**

**(A) In general**

A fee from any entity that seeks to enter into a covered leasing agreement.

**(B) Covered leasing agreement**

For purposes of subparagraph (A), a “covered leasing agreement” means a written agreement resulting from a public-private arrangement to construct, manage, and operate the nationwide public safety broadband network between the First Responder Network Authority and secondary user to permit—

(i) access to network capacity on a secondary basis for non-public safety services; and

(ii) the spectrum allocated to such entity to be used for commercial transmissions along the dark fiber of the long-haul network of such entity.

**(3) Lease fees related to network equipment and infrastructure**

A fee from any entity that seeks access to or use of any equipment or infrastructure, including antennas or towers, constructed or otherwise owned by the First Responder Network Authority resulting from a public-private arrangement to construct, manage, and operate the nationwide public safety broadband network.

**(b) Establishment of fee amounts; permanent self-funding**

The total amount of the fees assessed for each fiscal year pursuant to this section shall be sufficient, and shall not exceed the amount necessary, to recoup the total expenses of the First Responder Network Authority in carrying out its duties and responsibilities described under this subchapter for the fiscal year involved.

**(c) Annual approval**

The NTIA shall review the fees assessed under this section on an annual basis, and such fees may only be assessed if approved by the NTIA.

**(d) Required reinvestment of funds**

The First Responder Network Authority shall reinvest amounts received from the assessment of fees under this section in the nationwide public safety interoperable broadband network by using such funds only for constructing, maintaining, operating, or improving the network.

(Pub. L. 112-96, title VI, § 6208, Feb. 22, 2012, 126 Stat. 215.)

**§ 1429. Audit and report**

**(a) Audit**

**(1) In general**

The Secretary of Commerce shall enter into a contract with an independent auditor to conduct an audit, on an annual basis, of the First Responder Network Authority in accordance with general accounting principles and procedures applicable to commercial corporate transactions. Each audit conducted under this paragraph shall be made available to the appropriate committees of Congress.

**(2) Location**

Any audit conducted under paragraph (1) shall be conducted at the place or places where accounts of the First Responder Network Authority are normally kept.

**(3) Access to First Responder Network Authority books and documents**

**(A) In general**

For purposes of an audit conducted under paragraph (1), the representatives of the independent auditor shall—

(i) have access to all books, accounts, records, reports, files, and all other papers,