

(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, things, or property belonging to or in use by the First Responder Network Authority that pertain to the financial transactions of the First Responder Network Authority and are necessary to facilitate the audit; and

(ii) be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(B) Requirement

All books, accounts, records, reports, files, papers, and property of the First Responder Network Authority shall remain in the possession and custody of the First Responder Network Authority.

(b) Report**(1) In general**

The independent auditor selected to conduct an audit under this section shall submit a report of each audit conducted under subsection (a) to—

(A) the appropriate committees of Congress;

(B) the President; and

(C) the First Responder Network Authority.

(2) Contents

Each report submitted under paragraph (1) shall contain—

(A) such comments and information as the independent auditor determines necessary to inform Congress of the financial operations and condition of the First Responder Network Authority;

(B) any recommendations of the independent auditor relating to the financial operations and condition of the First Responder Network Authority; and

(C) a description of any program, expenditure, or other financial transaction or undertaking of the First Responder Network Authority that was observed during the course of the audit, which, in the opinion of the independent auditor, has been carried on or made without the authority of law.

(Pub. L. 112–96, title VI, § 6209, Feb. 22, 2012, 126 Stat. 216.)

§ 1430. Annual report to Congress**(a) In general**

Not later than 1 year after February 22, 2012, and each year thereafter, the First Responder Network Authority shall submit an annual report covering the preceding fiscal year to the appropriate committees of Congress.

(b) Required content

The report required under subsection (a) shall include—

(1) a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the First Responder Network Authority under this section; and

(2) such recommendations or proposals for legislative or administrative action as the First Responder Network Authority deems appropriate.

(c) Availability to testify

The members of the Board and employees of the First Responder Network Authority shall be available to testify before the appropriate committees of the Congress with respect to—

(1) the report required under subsection (a);

(2) the report of any audit conducted under section 1429¹ of this title; or

(3) any other matter which such committees may determine appropriate.

(Pub. L. 112–96, title VI, § 6210, Feb. 22, 2012, 126 Stat. 217.)

Editorial Notes

REFERENCES IN TEXT

Section 1429 of this title, referred to in subsec. (c)(2), was in the original a reference to section 6210 of Pub. L. 112–96, this section, and was translated as if it had been a reference to section 6209 of Pub. L. 112–96, which is classified to section 1429 of this title, to reflect the probable intent of Congress. Section 6210 does not relate to audits.

§ 1431. Public safety roaming and priority access

The Commission may adopt rules, if necessary in the public interest, to improve the ability of

public safety networks to roam onto commercial networks and to gain priority access to commercial networks in an emergency if—

(1) the public safety entity equipment is technically compatible with the commercial network;

(2) the commercial network is reasonably compensated; and

(3) such access does not preempt or otherwise terminate or degrade all existing voice conversations or data sessions.

(Pub. L. 112–96, title VI, § 6211, Feb. 22, 2012, 126 Stat. 218.)

§ 1432. Prohibition on direct offering of commercial telecommunications service directly to consumers**(a) In general**

The First Responder Network Authority shall not offer, provide, or market commercial telecommunications or information services directly to consumers.

(b) Rule of construction

Nothing in this section shall be construed to prohibit the First Responder Network Authority and a secondary user from entering into a covered leasing agreement pursuant to section 1428(a)(2)(B) of this title. Nothing in this section shall be construed to limit the First Responder Network Authority from collecting lease fees related to network equipment and infrastructure pursuant to section 1428(a)(3) of this title.

(Pub. L. 112–96, title VI, § 6212, Feb. 22, 2012, 126 Stat. 218.)

§ 1433. Provision of technical assistance

The Commission may provide technical assistance to the First Responder Network Authority and may take any action necessary to assist the First Responder Network Authority in effectuating its duties and responsibilities under this subchapter.

(Pub. L. 112–96, title VI, § 6213, Feb. 22, 2012, 126 Stat. 218.)

SUBCHAPTER III—PUBLIC SAFETY
COMMITMENTS**§ 1441. State and Local Implementation Fund****(a) Establishment**

There is established in the Treasury of the United States a fund to be known as the State and Local Implementation Fund.

(b) Amounts available for State and Local Implementation Grant Program

Any amounts borrowed under subsection (c)(1) and any amounts in the State and Local Implementation Fund that are not necessary to reimburse the general fund of the Treasury for such borrowed amounts shall be available to the Assistant Secretary to implement section 1442 of this title.

(c) Borrowing authority**(1) In general**

Prior to the end of fiscal year 2022, the Assistant Secretary may borrow from the gen-

¹ See References in Text note below.