Overview

With the passage of the *Middle Class Tax Relief and Job Creation Act of 2012*, Congress also enacted measures to develop and fund a nationwide public safety network. The purpose of the public safety network is to facilitate faster, interoperable communications capabilities for police, firefighters, emergency medical professionals and other public safety officials across levels of government. The federal legislation provides $7.0 billion in funding, a sizeable resource commitment on behalf of the federal government, that is expected to be obtained from revenue generated by spectrum lease auctions. However, many experts estimate a nationwide public safety network will cost tens of billions of dollars to construct — along with large amounts of money needed for ongoing maintenance and operation. At this time, there is no clear indication exactly what the final price tag for the network will be nor how the long-term operating and maintenance costs of the network will be funded. This makes the nationwide public safety network particularly relevant for state fiscal planners. Additionally, the potential risk for cost overruns is very real, and the project’s success will hinge on unprecedented collaboration between levels of government and the private sector.

Despite these challenges, FirstNet, the independent federal authority responsible for deploying the network, is quickly beginning to mobilize organizational resources and move the project ahead on a number of fronts. To date, 54 states and territories have been awarded $116 million in funds to strengthen planning efforts and improve coordination with FirstNet. For state budget officers, this represents an opportunity to engage with state and federal officials early in the network’s development, and if the network is executed well from the start, it could enhance public safety communications and reduce future planning and budgetary risks.

Background

In 2002, Congress created the National Commission on Terrorist Attacks Upon the United States, also known as the 9/11 Commission, to provide a full and complete account of the events surrounding the terrorist attacks on September 11, 2001. The Commission found that first responders from different operational units were unable to effectively communicate resulting in lives lost. In the Commission’s 2004 report, Congress was urged to pass legislation that, “provides for the expedited and increased assignment of radio spectrum for public safety purposes.” Congress adhered to this recommendation with the passage of the *Middle Class Tax Relief and Job Creation Act of 2012* (the “Act”), which contained the organizational framework, allocation of spectrum space, technical standards and funding authorization to build a nationwide public safety network.

The spectrum space reallocated to public safety communications is high quality, a necessary prerequisite for reliable disaster and safety communications. The spectrum range is also desirable among commercial wireless broadband providers, which is likely to help the federal government secure funds for the network through the licensing auction process. Proceeds from the broadband spectrum auctions, roughly estimated to generate $7 billion, are the primary source of revenue for the national public safety network. The Act will also allow bandwidth space on the network to be leased by the private sector, which is expected to bring down the overall cost for public sector users. According to the Congressional Research Service, “The cost of building a new wireless communications network is likely to be in the tens of billions of dollars. The expectation is that FirstNet will have access to existing infrastructure for some of the network’s components and that it will be able to invest through partnerships — with commercial wireless carriers or other secondary
users of its spectrum and infrastructure — that generate revenue.”

Clear policies on the use of spectrum for commercial versus public safety have yet to be established.

FirstNet

Under Title VI of the Act (PL.112-96), the federal entity responsible for coordinating the network's development and operation is the First Responder Network Authority (FirstNet), an independent authority that has been created within the Department of Commerce's National Telecommunications & Information Administration (NTIA). The term “FirstNet” also refers to the new public safety network. The Authority is led by a 15-member Board of Directors including the federal Secretary of Homeland Security, the Attorney General of the United States, and the Director of the Office of Management and Budget. The Secretary of Commerce is responsible for appointing other members of the FirstNet Board, and is required to appoint now fewer than 3 voting board members to represent the collective interests of states, localities, tribes and territories. According to the Act, FirstNet is charged with “taking all actions necessary” to build, deploy, and operate the network, in consultation with Federal, State, tribal and local public safety entities, and other key stakeholders. Specifically, the Act mandates that FirstNet consult with regional, state, tribal and local jurisdictions in the construction of the core network including the placement of towers and coverage areas of the network.

In addition to FirstNet, the Act authorized funding for the State and Local Implementation Grant Program (SLIGP). The grant program was created to ensure that the network meets the wireless public safety communications needs of various users across jurisdictions. To date, 54 states and territories have been awarded $116 million in funds through the grant program to coordinate with FirstNet and develop plans for how the network will be managed and implemented in different jurisdictions. A complete list of awards administered by the NTIA under the SLIGP can be found here. The Act also mandates that each Governor designate a single officer, governmental body or point of contact to serve as coordinator of implementation of the SLIGP grant funds. Communicating with these coordinators is the best means by which state budget officials can engage with FirstNet and stay informed of any potential fiscal impacts from the network in their state or territory. A list of each state or territory’s designated contact can be found here.

The Act does allow states to “opt-out” of the FirstNet network, but in turn, a state that opts out must develop an alternative plan to deploy a network that complies with minimum technical requirements and is interoperable with First Responder Network. This choice is likely to prove significantly more difficult and technically challenging for states to undertake. Additionally, for states that submit an alternative plan, the amount of grant funds provided for the network's construction will be less than if the state had opted in to the FirstNet program because, “the grant will be applied only toward building the radio access network and may be subject to matching grant requirements.” Added restrictions on public-private partnerships and increased user fees for access to FirstNet would apply in the instance that a state chooses to implement a network separate from FirstNet. The Act does not address states that choose neither to join FirstNet nor develop their own comparable network.

FirstNet Plans in 2014

FirstNet is charged with an unprecedented task — to build, deploy and operate a nationwide public safety network. This means the organization faces a number of unknowns and will benefit from continued collaboration with state and local stakeholders. The priorities for FirstNet over the coming year include: developing private sector RFPs for network partnerships, laying a foundation for technical interoperability, developing operational insights from early project movers, enhancing state and local outreach and collaboration efforts, and identifying the foundation of the network core. The Authority has an approved fiscal 2014 budget of $194 million to achieve these objectives over the coming year. A brief summary of FirstNet's business plan for 2014 can be found here. The FirstNet Board has also posted 46 resolutions on a wide range of issues that have been adopted since September 25, 2012. The FirstNet board recently announced the placement of outreach offices in each Federal Emergency management Agency (FEMA) region along with two national centers, on in Colorado and another in Northern Virginia. Announcements of upcoming FirstNet board meetings are regularly posted on the NTIA website and can be found here.
Implications of the Public Safety Network and Next Generation Emergency Communications for States

The public safety network is still in a very initial planning stage, meaning the political, technological, fiscal and practical details regarding how the network will become a reality are still in flux. The high level of uncertainty for state and local governments is probably the most challenging aspect of the next steps in planning for the network. At this time, there is no clear indication exactly how the long-term operating and maintenance costs of the network will be funded. The law has outlined a framework for public-private partnerships, including commercial sector leases, to help reduce costs for state and local governments. Additionally, the new nationwide network is intended to replace the current communications patchwork utilized by state and local public safety officials, thereby presenting an opportunity for cost savings. For example, public safety agencies could pay a monthly fee to utilize the network’s resources based upon need, similar to the commercial market for high speed wireless data, rather than maintain separate capabilities that at times can be duplicative in some jurisdictions. A fee for service model based upon a network that has economies of scale could present budget officials across levels of government with a stable and predictable cost structure. However, current business plans, technical requirements and the extent of the private sector’s involvement are unclear because the network is still in its very initial planning stages. FirstNet has gathered data from the private sector, engaged in direct outreach efforts with individual states and is poised to increase the numbers of staff in 2014. FirstNet has articulated plans to begin by developing the core of the network that will dictate routing and access of public safety information. Experiences from early users of the network will then be used to help improve public safety communication for the rest of the nation.

The federal government’s sizeable funding commitment and enacted legal framework indicate that the speed of the network’s construction and development will likely quicken over time as the organizational infrastructure solidifies and human capital accumulates. This means that state and local government stakeholders have the opportunity to voice concerns and influence the network’s creation over the next several years. The federal legislation provides a general framework for how shared use of the network between public and private users might look, but stakeholders will need to have more concrete business plans from the federal government as more information becomes available. To better learn what the long-term fiscal impact might be, states can begin to pose questions to FirstNet and start conversations with the assigned point of contact in each respective state. Public sector stakeholders will also likely need to increase their understanding of wireless technology, the network’s technical operating standards, and the wireless commercial sector in order to ensure that public safety officials enter favorable public-private partnerships that serve to lower costs over the long term.

2 The United States Department of Commerce’s National Telecommunications and Information Administration (NTIA). September 2013. Press Release: “More Than $116 Million Awarded to Assist States in FirstNet Planning.”
5 P.L. 112-96, Section 6204 and 6206 (2) (A) (i).
6 P.L. 112-96, Section 6206.
7 P.L. 112-96, Section 6202 (2) (A) (i-iii).
8 P.L. 112-96, Section 6302 (d).
9 P.L. 112-96, Section 6204 and 6206 (2) (A) (i).
11 P.L. 112-96, Section 6302 (g) (1) and Section 6302 (f).

If you would like additional information, please contact Scott Pattison (spattison@nasbo.org or 202-624-8804) or Mike Streepey (mstreepey@nasbo.org or 202-624-8433).