

**Before the
First Responder Network Authority**

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Request for Information for)	
Comprehensive Network Solution(s))	
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Proposed Interpretations of Parts of)	
the Middle Class Tax Relief and Job)	Dkt. No. 140821696-4696-01
Creation Act of 2012)	
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**CONSOLIDATED RESPONSE OF THE MACINAC INITIATIVE
TO THE
REQUEST FOR INFORMATION FOR COMPREHENSIVE NETWORK SOLUTION(S) AND
PUBLIC NOTICE AND REQUEST FOR COMMENTS**

The five States of the Mid-Atlantic Consortium for Advanced Interoperable Communications (MACINAC) Initiative are pleased to provide the following consolidated response to the First Responder Network Authority (FirstNet) Request for Information for Comprehensive Network Solution(s) (RFI)¹ and FirstNet’s Notice and Request for Comments (Notice).²

I. Introduction

Early in 2011, over a year before Congress created FirstNet, the statewide interoperability coordinators (SWICs) for the mid-Atlantic States sponsored and began developing a multi-state, regional approach to deployment and operation of the mid-Atlantic portion of the nationwide public safety broadband network. MACINAC, which includes Delaware, Maryland, Pennsylvania, Virginia and West Virginia, coordinates its member States to work together where concerted action will result in improved interoperability or cost savings.

Guided by its charter, MACINAC initially worked primarily on stakeholder education and documentation of a procurement strategy that would serve its regional approach; it also began identifying government-owned assets in the states for potential inclusion in the future network. Since the advent of FirstNet, MACINAC has focused on the development of a financially sustainable method to support the deployment, operation, maintenance, and improvement of the network in the region. It has engaged critical infrastructure industries in a variety of

¹ *Request for Information for Comprehensive Network Solution(s)*, First Responder Network Authority (Sept. 17, 2014) (RFI).

² *First Responder Network Authority Proposed Interpretations of Parts of the Middle Class Tax Relief and Job Creation Act of 2012*, Notice and Request for Comments, National Telecommunications and Information Administration, 79 FR 57058 (Sept. 24, 2014) (Notice).

discussions regarding their potential involvement in sustainment of the portion of the nationwide network within the region. As part of this effort, MACINAC issued a request for information in February 2013 seeking industry input on a viable sustainability approach and is using the responses it received to continue to develop its regional financial sustainability plan.

In this document, MACINAC describes, in the context of the RFI and the Notice, how it proposes to support FirstNet in designing, deploying, operating, and maintaining the network. As explained below, the MACINAC States propose to serve as a FirstNet pilot program to demonstrate, working with FirstNet, that a group of Opt-in States organized through a regional governance, can implement public-private partnerships to effectively and sustainably deploy the nationwide public safety broadband network (NPSBN) in their combined geographic areas.

II. MACINAC Envisions a More Substantial “Opt-in” Role

MACINAC strongly urges FirstNet to allow a regional consortium of states, such as MACINAC, to jointly determine the best course of action for the planning, deployment and implementation of FirstNet as part of a modified “opt-in” scenario. The Middle Class Tax Relief and Job Creation Act of 2012 (Act), permits the governor of each State to decide whether the State will “opt-in” to FirstNet’s proposed nationwide network or else build its own radio access network (RAN).³ Nothing in the Act prohibits a State from making its decision collectively, in consultation with its regional partners.

Within this framework, MACINAC urges FirstNet to allow multi-state regions to have a more substantial role in an “opt-in” scenario. This regional approach would give States greater input into the building, deployment, operation and maintenance of the network, while also fostering increased buy-in and facilitating network convergence.

The RFI suggests that FirstNet intends to control the Radio Access Network (RAN) for Opt-in States.

FirstNet’s current approach is based upon the premise that FirstNet will seek proposals for a network solution or solutions allowing it to control and operate ... Radio Access Networks in Opt-in States”⁴

MACINAC stated in its 2012 NOI comments:

MACINAC urges FirstNet to provide an avenue for “opt-in” states or groups of states to enter into partnerships with FirstNet under which the states may take on a more decisional role in the planning, deployment, operation, and maintenance of the network and in developing and implementing the associated business model. These partnerships would be cooperative, mutually beneficial,

³ Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. No. 112-96, Title VI, 126 Stat. 256 (codified at 47 U.S.C. 1401 *et seq.*)) (“Act”), Sec. 6302(e)(2).

⁴ RFI at 2.

and bounded by parameters defined by FirstNet within its authority under the Act. Through such partnerships with FirstNet, states would help ensure that the quality and affordability of the NPSBN service meet the particular needs of first responders in those states.

The benefits to this opt-in approach with a substantial regional role are described in detail below.

A. Increased Buy-in and Adoption

Critical to the success of FirstNet will be buy-in and adoption of the network by stakeholders at every level. The MACINAC States have a long and productive history of collaborative efforts that range from macro policy harmonization at the State level to effective mutual aid cooperation at the local level. Joint discussion and exchange of ideas has helped each of the member jurisdictions gain additional knowledge and fostered a spirit of cooperation to assure regional interoperability. This regional consortium offers FirstNet a unique opportunity to consult with five states at the same time and craft a unified solution that results in a regional design with full MACINAC participation to make opt-in an easy decision.

Our work thus far conducting outreach and education in our States and throughout the MACINAC region has convinced us that our public safety personnel will grow increasingly reluctant to join the network the longer the delay in real progress toward deployment. Equally important to adoption is the ability of our public safety agencies, through their own State and regional governance structures, to actively participate in network design, negotiations with potential partners, and planning for network roll-out.

Thus, stakeholder support requires meaningful participation, which calls for a less-than-nationwide approach. FirstNet's challenges in negotiating a single plan for deployment, operation, and sustainment of the network on a nationwide basis, addressing the attendant complexities of coverage and scale, would quickly overcome the imperative to solicit, receive, and give meaning to the input of State and local public safety stakeholders. The likely consequence would be a marked and fatal weakness in public safety support and adoption, an unacceptable result. A State-level approach could provide public safety agencies adequate involvement, but except for the one or two extremely large and diverse States, a single-State approach would lack the scale necessary to realize the efficiency and interoperability benefits—as well as the scale necessary for financial sustainability—made possible by a multi-state effort.

A multi-state region, comprised of contiguous States sharing a strong culture of cross-border mutual aid and a balance of urban and rural geographies, is the most manageable, advantageous unit for deployment of public safety LTE. It offers the best opportunity to take advantage of broad scale without losing the critical elements of stakeholder involvement and support.

B. Support Convergence

FirstNet is seeking comment on an RFI for Comprehensive Network Design. MACINAC believes that a comprehensive network design is not truly comprehensive unless it addresses convergence. The current state-of-the-art public safety communications technology in all 56 States and territories is State/locally owned Land Mobile Radio (LMR) systems. The future of public safety communications will include broadband data, supplied through the FirstNet network. We expect that eventually mission critical voice and public safety broadband data networks will converge—most likely around voice-over-LTE technology. The Office of Emergency Communications (OEC) has been discussing this convergence as part of our national emergency communications strategy since 2011.⁵ Though it is unlikely to occur until a fairly distant future date when mission-critical voice over LTE has been proven, when it does arrive the transition phase where voice and data systems are consolidated will be a major interoperability, technical, and governance challenge.

As envisioned in the RFI and Notice, while these networks will share users, they will have different owners, governance, technology, and funding sources, dramatically complicating technological convergence tomorrow. States and local governments have invested millions of dollars in LMR networks, and they are the best positioned to manage the transition and convergence to broadband. MACINAC members actively build, manage, and operate the LMR networks that should eventually converge with FirstNet. States and local governments need ownership and control of the RAN in their territories so that they can effectuate convergence with their current systems. A FirstNet-centric approach would hamper those efforts, potentially leading to substantial costs, both financially and operationally. State and local next generation 911 services will likely undergo a similar convergence with the NPSBN, subject to many of the same challenges described above with regard to voice communications. In order to realize full convergence, the LTE RAN should be completed and governed by current LMR system owners. MACINAC is well-suited to this role, as it is comprised of the LMR owners and operators for five States.

C. Differences Among States and Regions

FirstNet must recognize that States will vary in their preferred approaches to deployment of the network: the MACINAC States see great advantages in a multi-state regional approach with a strong regional role; other States may prefer individual State designs, while others might prefer a more FirstNet-driven approach. Furthermore, States may differ in their operational and business model preferences.

⁵ See, Public Safety Communications Evolution Brochure, available at: http://www.safecomprogram.gov/oec/public_safety_communications_evolution_brochure.pdf (last accessed 10/14/14).

The RFI asks:

Should FirstNet (A) seek proposals for a comprehensive, nationwide solution, (B) act as integrator and seek proposals for equipment and services to custom assemble a nationwide network, or (C) something there-between?⁶

We will address each of these options in turn. Option A does not adequately accommodate the possibility of a regional approach. Furthermore, Option A will make it nearly impossible to balance the individual interests and compositions of highly diverse States and localities. It also limits FirstNet to a single public private partnership opportunity if the solution is nationwide. MACINAC does not support this option, finding it contrary to the regional approach and the MACINAC Pilot proposed below.

Option B, while more accommodating than Option A, still takes a nationwide approach that is antithetical to regionally and locally driven solutions. It also increases FirstNet's role as the decision maker, determining which equipment, services, vendors and design approaches best fit each State's needs.

This leaves Option C—MACINAC's preferred option. Option C would allow for strong regional control over a regional RAN that connects to the national FirstNet core. It also would allow for private sector involvement on a regional level. This option correctly balances the need for regional customization with national interoperability and standardization.

D. Aspects of MACINAC's Desired Role

1. Election to Use Government Assets

The RFI asks,

At what stage(s) in the acquisition and deployment process should FirstNet consider the economic desirability of leveraging each type of existing infrastructure?⁷

There are inherent benefits when using non-commercial, government-owned assets such as stability, lower operating costs, hardening, and maintenance performed by the user community. Use of such assets in the construction of the initial RAN plan or in a future expansion phase should be viewed as a viable option immediately. This arrangement would produce immediate value because there would be no need to procure the asset(s); the use would be part of the opt-in agreement. MACINAC believes that the economic desirability of leveraging each type of existing infrastructure should be considered from the very beginning, before any RAN plan is finalized.

⁶ RFI at 4.

⁷ *Id.*

2. Awarding Covered Leasing Agreements

The RFI requests input on considerations related to—

combining such leasing [of excess network capacity] with the contract for building-out and operating the network, [and] the trade-offs between spectrum availability for public safety use and the value created (ultimately for public safety's benefit) through leasing excess network capacity to third parties.⁸

The Act allocated \$7 billion for the deployment of FirstNet nationally. It is widely accepted that this will not be enough money to fund a complete build to public safety requirements. For FirstNet to deploy a nationwide network to meet public safety requirements, it will need to monetize some portion of the network's excess capacity. In theory, this should be possible, as the population of primary users will not use all of the capacity during routine operations, and the unused capacity will have value for other potential (secondary) users. That said, selling such excess capacity will pose technological, operational, and governance challenges unprecedented in public safety communications.

As the RFI notes, the Act requires that money made selling excess capacity must be invested back into the network. Thus, selling excess capacity will require balancing the coverage and bandwidth needs of public safety with the value to public safety of revenues gained from providing capacity to secondary users. If potential public safety users are not convinced that this balance will be struck to their complete satisfaction, FirstNet will run the risk that those potential users will not adopt the network at all.

Only by involving State and local public safety stakeholders directly in the negotiations over use of excess capacity can FirstNet ensure buy-in from potential users, particularly because users from different States and regions are likely to have varying opinions on how to strike the revenue-versus-bandwidth balance. States and regions must be active participants in any decision to lease access to capacity on the network they will rely upon, with more than a "consulting" role in those decisions.

Many potential secondary users will be interested in use of the network in multi-state areas, particularly in the mid-Atlantic I-95 corridor. As a result, FirstNet should enable a regional approach to covered lease agreements and the revenue they will generate.⁹ MACINAC

⁸ RFI at 3.

⁹ MACINAC recognizes the possibility that potential secondary users may offer better terms in a nationwide arrangement than in one that covers only the mid-Atlantic region. The MACINAC States and FirstNet can work together to accommodate those users.

is in the best position to lead the effort to gain secondary users—and strike the right balance—in the mid-Atlantic region.

3. Setting Prices

The RFI requests respondents to “[d]escribe the optimal prices and features to drive adoption.”¹⁰

Initially, prices must be at or below those charged by commercial carriers for 4G LTE data service. If prices are higher than those charged by commercial carriers, public safety entities would have reduced incentive to join the network. Initially price will drive adoption, and widespread adoption improves interoperability. The network's value to users will increase as more people join, a phenomenon commonly referred to as "network effects." In other words, people will be more likely to join a network if joining provides access to a larger community of users. Starting with prices at or below commercial rates will create the sizeable, early user base necessary to realize those beneficial network effects.

Over time, as the network develops a reputation for reliability and excellence, public safety entities may be willing to pay a somewhat higher rate for a network proven to be more reliable, with unique public safety features and greater public safety control. A regional consortium like MACINAC, with specific knowledge of each State's needs, is particularly well-suited to determine optimal pricing for the region today, and in the future.

4. Retain and Direct a Portion of Revenues

MACINAC strongly supports allowing regions to retain a portion of the proceeds from fees paid by public safety subscribers and secondary users in the region. The Act requires FirstNet to:

...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.¹¹

The Act does not prohibit FirstNet from permitting a regional consortium like MACINAC from to direct the reinvestment of a portion of fee proceeds generated in MACINAC territory. The specific amount of that portion would be negotiated with FirstNet as part of the MACINAC States' opt-in agreements. MACINAC envisions that a portion of fee proceeds generated in the MACINAC States would be used expressly for enhancements to the NPSBN within the MACINAC region, including expanding coverage and making service improvements. Not only does MACINAC intend to use revenues generated from its urban and suburban coverage to support build-out in its rural areas, but we also understand the need for fees generated in relatively

¹⁰ RFI at 5.

¹¹ 47 USC §1428(d).

lucrative areas like MACINAC to help fund the build-out in other parts of the country where fees are not sufficient to fund the necessary deployment. A mutually agreed-upon formula can accomplish both needs and again foster participation in the FirstNet network.

5. Network Element Control

The Notice states:

[W]e define the core network as including without limitation the standard Evolved Packet Core elements under the 3rd Generation Partnership Project ("3GPP") standards (including the Serving and Packet Data Network Gateways, Mobility Management Entity, and the Policy and Charging Rules Function), device services, location services, billing functions, and all other network elements and functions other than the radio access network.¹²

MACINAC's concern with the proposed definition is that it conflates issues of policy and technology. We are not opposed to adopting 3GPP Standards with respect to technological definitions, such as those describing an "Evolved Packet Core." Our concern is that the implementation and operation of these technologies, including billing, location, and device services, need to be managed by users at the state and local level, whether acting independently or as a unified region. MACINAC is not interested in operating a core, nor is it advocating for State-run cores; instead we are suggesting that when considering the line of demarcation between RAN and core, FirstNet must be careful to respect the distinction between technology (the hardware, software, and standards) and the policy and operation of the core services. Public safety entities will be unlikely to support the network unless FirstNet provides States and local governments the means to control and manage services such as billing, location, and device services.

6. Rural Coverage

Both the RFI and the Notice request input on how to define and cover rural and nonurban areas. MACINAC considers the true issue to be development of a plan to achieve full coverage, including all areas, whether urban, rural, or nonurban. MACINAC would develop this plan, describing where it would deploy coverage initially as well as how it would provide coverage in the areas not covered in the initial build. During consultation with each of the MACINAC States, or with the region in aggregate, FirstNet would participate in the crafting of those coverage milestones. We expect that coverage milestones for each phase of deployment will take the general form of:

x percentage of defined geographic coverage within y time of an event, at z bandwidth

¹² Notice, 79 Fed Reg 57060.

To be clear, the goal is not to quarrel over the definition of "rural" or find a definition to borrow from a wholly unrelated statute with dissimilar subject matter, but instead to cover areas of the nation that are not adequately covered by existing services and are unlikely, for economic reasons, to ever be fully covered by commercial carriers. MACINAC's intention is to cover as much of the region as possible—including rural areas that are sometimes difficult to cover. This full coverage will be accomplished in phases through the combination of the initial network deployment (possibly commercial partners' network footprint), satellite coverage and deployables with a guaranteed time for availability. Subsequent phases will use revenue generated from user fees and secondary spectrum leases to expand coverage and capacity in areas determined by MACINAC's State and local stakeholders.

7. Prioritization/Preemption

Local/regional control over prioritization and pre-emption is absolutely critical. This is a very high priority for the MACINAC States. The RFI is unclear regarding the level of local control over prioritization/pre-emption. It includes the following statements:

[T]he network will provide both national and local control over prioritization, preemption, provisioning, device features and reporting to public safety agencies.¹³

[O]ne Program Objective is to provide a solution that allows priority and preemption for all NPSBN users under tiered, national, regional, and local control.¹⁴

MACINAC believes that the network MUST be deployed to enable local control, and policies must be implemented to ensure such local control. Local prioritization/pre-emption decisions must not require FirstNet/federal approval and must not be subject to override by FirstNet nor other federal authorities. FirstNet should embrace the view described in the National Incident Management System (NIMS) guidelines:

A basic premise of NIMS is that all incidents begin and end locally. NIMS does not take command away from State and local authorities. NIMS simply provides the framework to enhance the ability of responders, including the private sector and NGOs, to work together more effectively. ... The intention of the Federal Government in these situations is not to command the response, but rather to support the affected local, tribal, and/or State governments.¹⁵

¹³ RFI at 12.

¹⁴ RFI at 13.

¹⁵ NIMS: Frequently Asked Questions, National Information Management System, Federal Emergency Management Agency, U.S. Department of Homeland Security (available at <http://www.fema.gov/pdf/emergency/nims/nimsfaqs.pdf>).

Network priority and preemption challenges are both technological and policy-driven hurdles. MACINAC envisions that FirstNet would create and maintain the technological capabilities to perform preemption and prioritization in the national core, but would transfer the policy making and governance functions for implementing those capabilities to MACINAC. At the local level, priority templates and preemption policy would be crafted through MACINAC governance structures. MACINAC supports FirstNet’s plan to adopt a broad definition of “public safety entity”¹⁶ that would include transportation agencies and others not specifically identified in the Act that nonetheless support public safety efforts. This suggested paradigm enables and guarantees incident commander control of mission critical assets during events. It also allows for pre-established default configurations determined and implemented by MACINAC and its member States.

III. Proposal: A FirstNet-MACINAC Pilot

MACINAC proposes to work with FirstNet to develop a FirstNet-MACINAC Regional Pilot that would provide the MACINAC States the larger opt-in role described above while deploying, operating, and maintaining the NPSBN with strong stakeholder support and adoption, as well as sustainability, throughout the region. Though the details of this FirstNet-MACINAC partnership must be worked out, this section provides a preliminary description of a few proposed steps to follow upon FirstNet designating MACINAC as a pilot partner for the procurement, deployment, operation, and maintenance of the NPSBN in the mid-Atlantic region. This section also describes a legal basis for FirstNet’s authority to pursue the Pilot as proposed and includes a short discussion of potential sources of funds to support the Pilot’s initial and ongoing tasks.

A. Pilot Elements

1. Core Services

MACINAC’s intent is that, as contemplated in the Notice, FirstNet would provide core services for the Pilot as it will for the NPSBN generally. As a result, FirstNet’s core network procurement effort would proceed with the requirement that the core network be capable of supporting the MACINAC regional RAN.

2. Procuring the Radio Access Network

As part of the Pilot, the MACINAC States—whether through the governance process described in the MACINAC charter or through an alternative approach—intend to be deeply involved in the procurement of the regional RAN. MACINAC would work closely with FirstNet to draft one or more RFPs seeking proposals for a public-private partnership(s) to design, construct, operate, and maintain the RAN in the region.

Though MACINAC would rely upon FirstNet primarily for the portion of the RFP(s) describing the technical requirements to comply with the LTE standard, it also intends to be a

¹⁶ Notice, 79 FR 57060-57062.

critical partner with a substantial role in the development and management of RAN solicitations and contracting. In order to expedite the procurement process and ensure a more timely deployment, MACINAC envisions that it would issue the RFP(s) itself, whether via cooperative contracting through a MACINAC “Lead” State or some other means. This preference is driven largely by MACINAC’s concerns with the challenges of the federal procurement process and the shortage of confidence among MACINAC stakeholders in the viability of that federal process for such a high profile and complex investment of limited funds. The difficulties FirstNet has faced over the past two years with basic operational functions such as the hiring of staff have served to reinforce these concerns.

MACINAC fully expects one or more commercial carriers to respond to the Pilot’s RFP(s) with a creative proposal to leverage existing carrier infrastructure in exchange for use of excess network capacity; many believe such proposals will offer the best chance of efficient network roll-out in the near term, particularly in the mid-Atlantic region. We recognize, however, the possibility that no carrier will submit such a response and so intend to fashion the RFPs to encourage not only leveraged-carrier solutions, but also proposals for public-private partnerships that do not necessarily require a carrier partner. In any event, we do expect the private sector, whether in the form of carriers or other interested entities, to offer substantial help in achieving the reliability and efficiency MACINAC seeks in the construction and operation of the network in the region. If a potential partner should offer better terms on a nationwide rather than a regional basis, MACINAC and FirstNet can work together to ensure that MACINAC stakeholders enjoy those better terms. MACINAC envisions that such partnerships could help defray the costs of construction and maintenance of the network in the region.

In order to best ensure stakeholder involvement and support for the network, MACINAC would undertake the evaluation of the RFP responses and related bidder negotiations with FirstNet participation. We envision that these negotiations would include the identification of major secondary user entities and the terms of the covered leasing agreements governing such secondary use. This is a critical area of concern for MACINAC stakeholders and one in which we believe they must be deeply involved, because it necessarily includes consideration of the amount of excess network capacity to be made available to secondary users—and thus not used by public safety. With FirstNet’s help, MACINAC would negotiate with the bidders and evaluate final offers. MACINAC would identify the winning bid(s) and recommend them to FirstNet for approval or disapproval.

MACINAC intends that the contract(s) that emerge from the RFP process would be executed by the winning bidder(s) and the entity that issued the Pilot RFP(s), whether it was a MACINAC “Lead State” or another State or regional mechanism with appropriate contracting authority. We envision that FirstNet may be a party to the agreement(s) as appropriate, provided that MACINAC retains the ability to enforce the agreed terms upon the winning bidder.

3. State Plans and Ongoing RAN Governance

After the award of the contract(s) for the Pilot, MACINAC would retain a substantial ongoing role in the governance of the RAN in the region. This role would flow not only from the terms of those contracts but also from the agreements between FirstNet and the MACINAC States in which the States elect to accept the FirstNet state plans; each state plan would include the MACINAC Pilot and provisions for ongoing MACINAC governance of the deployment, operation, and maintenance of the regional RAN.

4. An Early Test for the Regional Approach

A regional pilot such as we propose here would provide FirstNet, State and local stakeholders, and potential RFP respondents (manufacturers, carriers, integrators, investors, and others) an early opportunity to identify the critical components of the agreements needed to effectuate a sustainable regional deployment. The MACINAC Pilot would serve the same role for regional deployments as the pilot Initial Consultations have served for implementing the consultation requirements of the Act: increasing the knowledge base and helping identify best practices.

B. FirstNet Possesses the Authority to Accept This Proposal

The Act endows FirstNet with adequate authority to accept the proposal for the MACINAC Pilot described here. Congress's central charge to FirstNet was that it "shall ... take all actions necessary to *ensure* the building, deployment, and operation of the nationwide public safety broadband network."¹⁷ FirstNet's obligation is not to undertake the building, deployment, and operation of the network itself, but rather to cause these tasks to occur, whether by contract with vendors, agreement with States, or other means. Indeed, Congress describes the actions FirstNet may take as including

managing and overseeing the implementation and execution of contracts or agreements with non-Federal entities to build, operate, and maintain the network.¹⁸

The arrangement by which a State "opts in" is just such a contract or agreement. The Act requires FirstNet to present to each State's Governor "details of the proposed plan for build-out of the nationwide, interoperable broadband network in such State."¹⁹ In response, "the Governor shall choose whether to ... participate in the deployment of the nationwide, interoperable broadband network as *proposed* by the First Responder Network Authority ..."²⁰

¹⁷ Act, Sec. 6206(b)(1) (emphasis added).

¹⁸ *Id.*

¹⁹ Act, Sec. 6302(e).

²⁰ *Id.* (emphasis added).

Thus, the opt-in process includes both offer and acceptance, resulting in a contract between FirstNet and the Opt-in State.

The Act contains no carve-out excluding States or groups of States from the list of “non-Federal entities” with which FirstNet is explicitly authorized to “ensure” the construction and operation of the network. Accordingly, though FirstNet may “manag[e] and oversee[]” the opt-in agreement with the State, the State may, pursuant to that agreement, undertake the “building, deployment, and operation of the nationwide public safety broadband network” in the State through implementation of the proposed MACINAC Pilot.

In addition to the fairly specific authority described above, Congress also recognized that FirstNet, State and local governments, and the private sector could develop new and creative approaches to network deployment and operation that require authority beyond those specified in the Act. Thus, if FirstNet believes, as we do, that stakeholder support is critical to success, and that a regional approach is the most advantageous approach that can reasonably be expected to generate the necessary stakeholder support, it is authorized to embrace and pursue the proposed MACINAC Pilot under Section 6206, which provides that “the First Responder Network Authority may ... take such other actions as may be necessary to accomplish the purposes set forth in this subsection.”²¹

C. Funding the Pilot Work

The tasks associated with the Pilot, including those described here, would require financial support. SLIGP funding could be utilized in the short-term for this purpose, though its use would probably require NTIA to allow the MACINAC States to use some portion of their SLIGP Phase Two funds for this purpose, particularly for proceeding with the procurement effort. In the longer term, FirstNet and NTIA could support the Pilot by providing funding from the funds designated for construction, operation, and maintenance of the NPSBN.²²

²¹ Act, Sec. 6206(b)(4).

²² Act, Secs. 6207, 6413.

IV. Conclusion

For the reasons above, the five States of the MACINAC Initiative urge FirstNet to embrace the proposed regional MACINAC Pilot and work with MACINAC to further develop its elements and process.

Respectfully submitted on behalf of the MACINAC Initiative,



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