

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.)

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 Con-

gress. 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.)

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