

§ 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 general fund of the Treasury such sums as may be necessary, but not to exceed \$135,000,000, to implement section 1442 of this title.

(2) Reimbursement

The Assistant Secretary shall reimburse the general fund of the Treasury, without interest, for any amounts borrowed under paragraph (1) as funds are deposited into the State and Local Implementation Fund.

(d) Transfer of unused funds

If there is a balance remaining in the State and Local Implementation Fund on September 30, 2022, the Secretary of the Treasury shall

transfer such balance to the general fund of the Treasury, where such balance shall be dedicated for the sole purpose of deficit reduction.

(Pub. L. 112–96, title VI, § 6301, Feb. 22, 2012, 126 Stat. 218.)

§ 1442. State and local implementation

(a) Establishment of State and Local Implementation Grant Program

The Assistant Secretary, in consultation with the First Responder Network Authority, shall take such action as is necessary to establish a grant program to make grants to States to assist State, regional, tribal, and local jurisdictions to identify, plan, and implement the most efficient and effective way for such jurisdictions to utilize and integrate the infrastructure, equipment, and other architecture associated with the nationwide public safety broadband network to satisfy the wireless communications and data services needs of that jurisdiction, including with regards to coverage, siting, and other needs.

(b) Matching requirements; Federal share

(1) In general

The Federal share of the cost of any activity carried out using a grant under this section may not exceed 80 percent of the eligible costs of carrying out that activity, as determined by the Assistant Secretary, in consultation with the First Responder Network Authority.

(2) Waiver

The Assistant Secretary may waive, in whole or in part, the requirements of paragraph (1) for good cause shown if the Assistant Secretary determines that such a waiver is in the public interest.

(c) Programmatic requirements

Not later than 6 months after February 22, 2012, the Assistant Secretary, in consultation with the First Responder Network Authority, shall establish requirements relating to the grant program to be carried out under this section, including the following:

(1) Defining eligible costs for purposes of subsection (b)(1).

(2) Determining the scope of eligible activities for grant funding under this section.

(3) Prioritizing grants for activities that ensure coverage in rural as well as urban areas.

(d) Certification and designation of officer or governmental body

In carrying out the grant program established under this section, the Assistant Secretary shall require each State to certify in its application for grant funds that the State has designated a single officer or governmental body to serve as the coordinator of implementation of the grant funds.

(e) State network

(1) Notice

Upon the completion of the request for proposal process conducted by the First Responder Network Authority for the construction, operation, maintenance, and improvement of the nationwide public safety broad-

band network, the First Responder Network Authority shall provide to the Governor of each State, or his designee—

(A) notice of the completion of the request for proposal process;

(B) details of the proposed plan for build-out of the nationwide, interoperable broadband network in such State; and

(C) the funding level for the State as determined by the NTIA.

(2) State decision

Not later than 90 days after the date on which the Governor of a State receives notice under paragraph (1), the Governor shall choose whether to—

(A) participate in the deployment of the nationwide, interoperable broadband network as proposed by the First Responder Network Authority; or

(B) conduct its own deployment of a radio access network in such State.

(3) Process

(A) In general

Upon making a decision to opt-out under paragraph (2)(B), the Governor shall notify the First Responder Network Authority, the NTIA, and the Commission of such decision.

(B) State request for proposals

Not later than 180 days after the date on which a Governor provides notice under subparagraph (A), the Governor shall develop and complete requests for proposals for the construction, maintenance, and operation of the radio access network within the State.

(C) Submission and approval of alternative plan

(i) In general

The State shall submit an alternative plan for the construction, maintenance, operation, and improvements of the radio access network within the State to the Commission, and such plan shall demonstrate—

(I) that the State will be in compliance with the minimum technical interoperability requirements developed under section 1423 of this title; and

(II) interoperability with the nationwide public safety broadband network.

(ii) Commission approval or disapproval

Upon submission of a State plan under clause (i), the Commission shall either approve or disapprove the plan.

(iii) Approval

If the Commission approves a plan under this subparagraph, the State—

(I) may apply to the NTIA for a grant to construct the radio access network within the State that includes the showing described in subparagraph (D); and

(II) shall apply to the NTIA to lease spectrum capacity from the First Responder Network Authority.

(iv) Disapproval

If the Commission disapproves a plan under this subparagraph, the construction,

maintenance, operation, and improvements of the network within the State shall proceed in accordance with the plan proposed by the First Responder Network Authority.

(D) Funding requirements

In order to obtain grant funds and spectrum capacity leasing rights under subparagraph (C)(iii), a State shall demonstrate—

(i) that the State has—

(I) the technical capabilities to operate, and the funding to support, the State radio access network;

(II) has the ability to maintain ongoing interoperability with the nationwide public safety broadband network; and

(III) the ability to complete the project within specified comparable timelines specific to the State;

(ii) the cost-effectiveness of the State plan submitted under subparagraph (C)(i); and

(iii) comparable security, coverage, and quality of service to that of the nationwide public safety broadband network.

(f) User fees

If a State chooses to build its own radio access network, the State shall pay any user fees associated with State use of elements of the core network.

(g) Prohibition

(1) In general

A State that chooses to build its own radio access network shall not provide commercial service to consumers or offer wholesale leasing capacity of the network within the State except directly through public-private partnerships for construction, maintenance, operation, and improvement of the network within the State.

(2) Rule of construction

Nothing in this subsection shall be construed to prohibit the State and a secondary user from entering into a covered leasing agreement. Any revenue gained by the State from such a leasing agreement shall be used only for constructing, maintaining, operating, or improving the radio access network of the State.

(h) Judicial review

(1) In general

The United States District Court for the District of Columbia shall have exclusive jurisdiction to review a decision of the Commission made under subsection (e)(3)(C)(iv).

(2) Standard of review

The court shall affirm the decision of the Commission unless—

(A) the decision was procured by corruption, fraud, or undue means;

(B) there was actual partiality or corruption in the Commission; or

(C) the Commission was guilty of misconduct in refusing to hear evidence pertinent and material to the decision or of any

other misbehavior by which the rights of any party have been prejudiced.

(Pub. L. 112-96, title VI, § 6302, Feb. 22, 2012, 126 Stat. 219.)

§ 1443. Public safety wireless communications research and development

(a) NIST directed research and development program

From amounts made available from the Public Safety Trust Fund, the Director of NIST, in consultation with the Commission, the Secretary of Homeland Security, and the National Institute of Justice of the Department of Justice, as appropriate, shall conduct research and assist with the development of standards, technologies, and applications to advance wireless public safety communications.

(b) Required activities

In carrying out the requirement under subsection (a), the Director of NIST, in consultation with the First Responder Network Authority and the public safety advisory committee established under section 1425(a) of this title, shall—

- (1) document public safety wireless communications technical requirements;
- (2) accelerate the development of the capability for communications between currently deployed public safety narrowband systems and the nationwide public safety broadband network;
- (3) establish a research plan, and direct research, that addresses the wireless communications needs of public safety entities beyond what can be provided by the current generation of broadband technology;
- (4) accelerate the development of mission critical voice, including device-to-device “talkaround” capability over broadband networks, public safety prioritization, authentication capabilities, and standard application programming interfaces for the nationwide public safety broadband network, if necessary and practical;
- (5) accelerate the development of communications technology and equipment that can facilitate the eventual migration of public safety narrowband communications to the nationwide public safety broadband network; and
- (6) convene working groups of relevant government and commercial parties to achieve the requirements in paragraphs (1) through (5).

(Pub. L. 112-96, title VI, § 6303, Feb. 22, 2012, 126 Stat. 221.)

SUBCHAPTER IV—SPECTRUM AUCTION AUTHORITY

§ 1451. Deadlines for auction of certain spectrum

(a) Clearing certain Federal spectrum

(1) In general

The President shall—

- (A) not later than 3 years after February 22, 2012, begin the process of withdrawing or modifying the assignment to a Federal Government station of the electromagnetic spectrum described in paragraph (2); and

(B) not later than 30 days after completing the withdrawal or modification, notify the Commission that the withdrawal or modification is complete.

(2) Spectrum described

The electromagnetic spectrum described in this paragraph is the 15 megahertz of spectrum between 1675 megahertz and 1710 megahertz identified under paragraph (3).

(3) Identification by Secretary of Commerce

Not later than 1 year after February 22, 2012, the Secretary of Commerce shall submit to the President a report identifying 15 megahertz of spectrum between 1675 megahertz and 1710 megahertz for reallocation from Federal use to non-Federal use.

(b) Reallocation and auction

(1) In general

Notwithstanding paragraph (15)(A) of section 309(j) of this title, not later than 3 years after February 22, 2012, the Commission shall, except as provided in paragraph (4)—

- (A) allocate the spectrum described in paragraph (2) for commercial use; and
- (B) through a system of competitive bidding under such section, grant new initial licenses for the use of such spectrum, subject to flexible-use service rules.

(2) Spectrum described

The spectrum described in this paragraph is the following:

- (A) The frequencies between 1915 megahertz and 1920 megahertz.
- (B) The frequencies between 1995 megahertz and 2000 megahertz.
- (C) The frequencies described in subsection (a)(2).
- (D) The frequencies between 2155 megahertz and 2180 megahertz.
- (E) Fifteen megahertz of contiguous spectrum to be identified by the Commission.

(3) Proceeds to cover 110 percent of Federal relocation or sharing costs

Nothing in paragraph (1) shall be construed to relieve the Commission from the requirements of section 309(j)(16)(B) of this title.

(4) Determination by Commission

If the Commission determines that the band of frequencies described in paragraph (2)(A) or the band of frequencies described in paragraph (2)(B) cannot be used without causing harmful interference to commercial mobile service licenses in the frequencies between 1930 megahertz and 1995 megahertz, the Commission may not—

- (A) allocate such band for commercial use under paragraph (1)(A); or
- (B) grant licenses under paragraph (1)(B) for the use of such band.

(c) Omitted

(Pub. L. 112-96, title VI, § 6401, Feb. 22, 2012, 126 Stat. 222.)

CODIFICATION

Section is comprised of section 6401 of Pub. L. 112-96. Subsec. (c) of section 6401 of Pub. L. 112-96 amended section 309 of this title.