

Response to Written Questions Submitted by Hon.
John Thune
Written Questions for the Record to
Michael Poth

Question 1. Mr. Poth, how do you intend to work with small, rural providers to ensure efficient and effective network coverage in rural and remote areas?

Response: FirstNet recognizes the importance of having reliable network coverage in rural and remote areas, and takes very seriously the rural coverage requirements under its enabling legislation, including substantial rural milestones as part of each phase of network deployment. FirstNet's commitment to rural implementation was reflected in FirstNet's request for proposals (RFP). To ensure proposals included small and rural partnerships, the FirstNet RFP stated "the Offeror's solution must demonstrate intent to exercise rural telecommunications provider partnerships for at least 15 percent of the total persistent rural coverage nationwide." AT&T's winning proposal met the rural partnership threshold, and they are partnering with small and rural providers across the country. Additionally, AT&T maintains the ability to expand and continue to partner with small and rural providers to extend coverage to rural parts of the country through the life of the 25-year contract.

Response to Written Questions Submitted by Hon.
Roger Wicker
Written Questions for the Record to
Michael Poth

Question 1. Mr. Poth, what percentage of rural areas across the continental United States will FirstNet and AT&T cover using deployable devices? What percentage of rural areas across the continental United States will FirstNet and AT&T cover rural network providers?

Response. FirstNet's wireless coverage will reach more than 99 percent of the rural population and, by combining their wireless network with rural telecommunications networks, deployables and additional satellite technology, AT&T will cover nearly 100% of the U.S. geography. AT&T is taking advantage of existing contractual relationships with more than 60 rural telecommunication providers with wireless infrastructure and fiber backhaul to deliver the coverage specified by FirstNet. Over the 25 year contract, FirstNet and AT&T will look to continually expand that coverage footprint. Additionally, AT&T will be using deployable units, such as cells on wheels (COWs) and Cells on Light Trucks (COLTs), to add coverage in remote areas across the country in times of emergency.

Question 2. Mr. Poth, during the July 20 hearing, it was suggested that "deployables" may be the primary answer to rural coverage for FirstNet, but may only be available in the case of a major incident, not for the day-to-day needs of public safety in rural areas. What is the specific commitment for FirstNet and AT&T to provide continuous coverage for public safety in rural areas? Please explain.

Response. FirstNet's deployable strategy is an important part of providing service where terrestrial service may be unavailable, whether it be a lack of coverage or network restoration. Deployables will not be the only solution in delivering rural coverage. FirstNet and AT&T will work with public safety to identify rural areas that are in need of permanent ("continuous") coverage to determine how those needs may best be met as part of our ongoing network expansion process.

Question 3. Mr. Poth, if the contractual relationship is between AT&T and FirstNet and not between AT&T and the states, how can governors (and their successors for the next 25 years) ensure that the commitments made in the FirstNet and AT&T state plan are enforced?

Response. While the contractual relationship is between AT&T and FirstNet, FirstNet has and will continue to ensure that there are robust oversight mechanisms to ensure AT&T executes on the state plans as they have been presented.

Strict internal and external oversight of the AT&T and FirstNet partnership are and will continue to be critical to FirstNet's success. AT&T and FirstNet stand by our commitment to the states as we have presented in the state plans across the country. As states opt-in to the AT&T and FirstNet solution, the partnership is committed to executing on that plan, and our reputation stands on it.

The public safety communications market itself also drives the need for AT&T and FirstNet to execute. The State and local public safety users have the ultimate market-driven tool to ensure their needs are being met: the ability to walk away and switch to another service. FirstNet intends to work directly with state and local public safety entities to meet their needs of expanded coverage and capacity, feature and device upgrades, etc. as they arise. In order to sustain the network, FirstNet and its partner must listen to and adapt to public safety's changing situational awareness and operational needs over the next 25+ years.

Additionally, when the National Public Safety Broadband Network (NPSBN) contract task order that will initiate the buildout of the state radio access networks (RANs) is executed, the task order will contain quality assurance surveillance items that will allow FirstNet to track key performance indicators (KPIs). These KPI's will measure and monitor the performance of the NPSBN contractor throughout the life of the contract. Along with the acceptance criteria of key state RAN deliverables and built in contract disincentives (if the contractor does not perform), these measures will give the government and the states the assurance that the NPSBN contractor is performing the due diligence required to maximize cost efficiency and safe network access; and ensure overall program success. Moreover, both programmatic and contractual processes have been put in place to assist in the monitoring and oversight required, including but not limited to a FirstNet network governance model, contract administration plan, change and configuration management processes, and a FirstNet network Concept of Operations plan.

Question 4. Mr. Poth, please provide additional information on the subscription pricing plans for first responders' use of the FirstNet network. Have AT&T and FirstNet set pricing or user fees for the 25-year life of the contract? Does AT&T have discretion to change user fees for access to the core and for first responder usage over the 25-year contract period?

Response. AT&T and FirstNet have not set user fees for the 25-year life of the contract. FirstNet/AT&T service rates will be competitively priced with the current public safety communications marketplace. The rates that AT&T charges for the FirstNet service will be governed by contracts between the company and its public safety customers and agencies. These contracts will stipulate how much AT&T can charge throughout the contract term. In addition, such contracts do not include termination liability, so a customer or agency could terminate its relationship with AT&T and FirstNet at any time.

Finally, the agreement between AT&T and the FirstNet Authority requires AT&T to meet ongoing targets to incentivize public safety adoption of the service. There are severe financial penalties for failing to meet such targets. Therefore, this will act as another mechanism to keep AT&T's prices competitive.

Any fees for access to and use of the FirstNet core network by an opt-out state will be included in the Spectrum Manager Lease Agreement (SMLA) between FirstNet and such opt-out state.

Question 5. Mr. Poth, is the state-by-state build-out plan for Band Class 14 included in the AT&T and FirstNet contract? What are the penalties if AT&T does not buildout the Band Class 14 network targets on time?

Response. The NPSBN contract scope does include the state-by-state radio access network (RAN) build-out of Band 14. Most of that work will be accomplished through a future NPSBN contract task order (State RAN).

The NPSBN contract contains very specific consequences if AT&T fails to meet its obligations (including delayed payments and penalties). The specific details of the various contractual penalties are considered source selection sensitive and cannot be disclosed.

Question 6. Mr. Poth, the term “Public Safety Grade” was discussed at the hearing.

- a. Are you familiar with that term? If so, please explain what it means. If not, should Congress help define this?
- b. Will FirstNet and AT&T use the National Public Safety Telecommunications Council’s standards for the public safety network?
- c. Did the FirstNet RFP bind the winning vendor to building a network to National Public Safety Telecommunications Council standards?
- d. Are public safety grade standards defined in the contract between FirstNet and AT&T and, if not, will they be added to the contract and how? Please explain.

Response. FirstNet is familiar with the term “Public Safety Grade” and reviewed, among other resources, the National Public Safety Telecommunications Council (NPSTC) report titled “Defining Public Safety Grade Systems and Facilities” published in May 2014. In fact, many topics addressed in the NPSTC report were reflected in FirstNet’s request for proposals (RFP), including hardening, resilient connections, backup power, weatherization, and other issues specific to public safety’s needs.

Delivering a public safety grade system results in a highly available network for public safety, ensuring the services and tools they need are available when they need it. Given this critical importance, user service availability (99.99%) was one of the core 16 objectives that were the foundation of the FirstNet RFP. FirstNet ensured that all the objectives of the RFP were met, including user service availability, which are reflected in the contract between FirstNet and AT&T.

Question 7. Mr. Poth, how many SPOC's (single points of contact) or other state employees involved in this process are now employed by, or consult for, FirstNet? If there are any, do you believe that this is a conflict of interest?

Response: FirstNet currently employs 10 former Single Points of Contact (SPOCs) or state employees involved in FirstNet efforts and utilizes two such consultants.

Pursuant to applicable Federal law, the employment by FirstNet of former state SPOCs or other state employees involved in FirstNet matters does not, by itself, create a conflict of interest. Under the Standards of Ethical Conduct for Employees of the Executive Branch, a Federal employee may not work on a matter in which a former employer in the past year is a party or represents a party if a reasonable person with knowledge of all facts would question the employee’s impartiality in the matter. 5 C.F.R. § 2635.502(a), (b)(iv). Despite this prohibition, the regulations permit an employee’s participation if the agency, after weighing several factors

enumerated in the regulations, makes a determination that the Government's interest in the employee's participation outweighs the concern that a reasonable person may question the integrity of agency programs. 5 C.F.R. § 2635.502(d).

Pursuant to this rule, during the one-year period after leaving his or her position as a SPOC or other state government position, a FirstNet employee would be prohibited from working on any matter in which the state is or represents a party. If, however, after considering the factors set forth in the regulations and consulting with the Office of the General Counsel for the Department of Commerce, the employee's supervisor makes a determination that the Government's interest in the former SPOC's/state employee's participation in a matter involving the state outweighs the concern that a reasonable person may question the integrity of agency programs, the employee may be authorized to work on such matters.

Insofar as FirstNet uses former SPOCs or other state employees in a non-employee consulting capacity, such a relationship does not create a conflict of interest for FirstNet under applicable Federal laws. FirstNet is not authorized to comment as to whether such a relationship would create a conflict for the former SPOC or other state government employee in his/her individual capacity as a former state employee.

a. Mr. Poth, do you believe that employment at AT&T be prohibited, or delayed, for former FirstNet employees?

b. Should employment at FirstNet be prohibited, or delayed, for former state employees?

Response a. While there is no authority that imposes a blanket prohibition or delay on the employment with AT&T by former FirstNet employees, applicable Federal law does impose some restrictions on such employment. Specifically, under the Procurement Integrity Act, a former FirstNet employee may not accept compensation from AT&T as an employee, officer, director, or consultant of AT&T within one year after the employee (with regard to the AT&T contract):

- served as the **procuring contracting officer,**
- served as the **source selection authority,**
- served as a member of a **source selection evaluation board,**
- served as the **chief of a financial or technical evaluation team**
- served as the **program manager, deputy program manager, or administrative contracting officer, OR**
- **personally made any decisions on behalf of FirstNet to**
 - award a contract, subcontract, modification, or a task order or delivery order in excess of \$10 million to AT&T;
 - establish overhead or other rates applicable to the AT&T contract;
 - approve a contract payment or claim over \$10 million; or
 - pay or settle a claim over \$10 million.

41 U.S.C. § 2104. Additionally, pursuant to 18 U.S.C. § 207(a)(1), a former FirstNet employee is prohibited from contacting a Federal agency or Federal court on behalf of any other person regarding the AT&T contract if the employee worked on that contract while employed by

FirstNet. Further, a former FirstNet employee is barred for two years after leaving federal service from contacting any Federal agency or Federal court regarding any AT&T contract-related matter that was under his or her supervision during the employee's last year of employment. 18 U.S.C. § 207(a)(1). Finally, any former "senior" FirstNet employee (meaning an employee that earned more than \$161,755 in base pay) is subject to an additional restriction that prohibits the employee from contacting NTIA (including FirstNet) on behalf of anyone else for one year after the termination of his or her federal employment.

b. While there is no authority that imposes a blanket prohibition or delay on the employment with FirstNet by former state employees, applicable Federal law does impose some restrictions on such employment. Under the Standards of Ethical Conduct for Employees of the Executive Branch, a Federal employee may not work on a matter in which a former employer in the past year is a party or represents a party if a reasonable person with knowledge of all facts would question the employee's impartiality in the matter. 5 C.F.R. § 2635.502(a), (b)(iv). Despite this prohibition, the regulations permit an employee's participation if the agency, after weighing several factors enumerated in the regulations, makes a determination that the Government's interest in the employee's participation outweighs the concern that a reasonable person may question the integrity of agency programs. 5 C.F.R. § 2635.502(d).

Pursuant to this rule, during the one-year period after leaving his or her position with the state, a FirstNet employee would be prohibited from working on any matter in which the state is or represents a party. If, however, after considering the factors set forth in the regulations and consulting with the Office of the General Counsel for the Department of Commerce, the employee's supervisor makes a determination that the Government's interest in the former state employee's participation in a matter involving the state outweighs the concern that a reasonable person may question the integrity of agency programs, the employee may be authorized to work on such matters.

Question 8. Mr. Poth, did the FirstNet RFP require bidders to provide maps of the entire country for signal propagation – the placement of its towers – at a resolution of 30 meters? If so, did AT&T comply? Did any other applicant comply?

Response. Yes, the FirstNet RFP (Section L, Instructions, Conditions, and Notices to Offerors or Respondents) provided offerors specific instructions associated with NPSBN proposal submission, which included map submission requirements. All offerors complied with the map-related requirements of the RFP.

Question 9. Mr. Poth, does FirstNet have the right to terminate its agreement with AT&T? If so, under what circumstances can FirstNet terminate its contractual agreement with AT&T?

Response. Yes, FirstNet, through its acquisition service provider, can terminate the NPSBN contract with AT&T under certain circumstances, pursuant to specific contract clauses that are standard for Federal Government contracts.

Question 10. Mr. Poth, aside from its opt-out policies, what other steps will FirstNet take to ensure that public safety users continue to have competitive alternatives for its communications products and services? Does FirstNet anticipate establishing roaming agreements with other wireless carriers, which would enable it to leverage the infrastructure of a broader base of wireless competitors? Does FirstNet intend to provide public safety users with devices that will allow interoperability across multiple broadband networks?

Response. FirstNet awarded the NPSBN contract that Congress envisioned following a robust, open, and competitive acquisition process. When developing the objectives and other content in the NPSBN RFP, FirstNet ensured that any offeror submitting a proposal would be held to adoption targets that would measure public safety uptake of services and give FirstNet the assurance that the services are being delivered as committed. AT&T must provide a service in accordance with the contract terms and conditions that is compelling, competitively priced and relevant to public safety in order to gain and maintain public safety customers who are under no obligation to purchase services. AT&T will be subject to significant penalties if it fails to meet the adoption targets referenced above and specified in the contract, which, along with the expected continued robust marketplace competition, highly incentivizes AT&T to meet the needs of public safety.

AT&T has established and enabled roaming agreements with all of its roaming partners to service NPSBN users. This will ensure that public safety not only is able to use AT&T's network, but also those of its partners. FirstNet will work with AT&T to ensure that the public safety device portfolio is able to use all of the spectrum available.

Question 11. Mr. Poth, some have expressed concern about securing the FirstNet network from cyberattacks or threats perpetrated by malicious attackers. In your view, should the Department of Homeland Security have a shared role with the Department of Commerce in overseeing the security of the FirstNet network?

Response. The Middle Class Tax Relief and Job Creation Act of 2012 (Act) required FirstNet to "ensure the safety, security, and resiliency of the network, including requirements for protecting and monitoring the network to protect against cyberattack." FirstNet has partnered with a number of federal agencies and departments in order to utilize cybersecurity best practices, including the National Institute of Standards and Technology (NIST) and The Department of Homeland Security (DHS). DHS provided input in the drafting of the NPSBN RFP in the area of cybersecurity and remains a key resource for FirstNet on cybersecurity issues.

The FirstNet Network is unique in the fact it is a public wireless and wireline telecommunications network that is the product of a congressionally mandated public-private partnership between the federal government and the private sector. This requires a special and specific skillset in order to navigate the complexities in fulfilling the mission under the Act, which Congress recognized in making FirstNet solely responsible for ensuring the deployment, operation, and maintenance of the NPSBN, including the security of the network. DHS should not have a shared role in overseeing the security of the FirstNet Network -- this is clearly FirstNet's responsibility, and FirstNet is committed to continuing the partnership with DHS,

seeking advice and counsel when needed. Cybersecurity is a key objective of the NPSBN contract (Attachment J-10, Cybersecurity), and AT&T is responsible for ensuring all security measures are implemented in accordance with the NPSBN contract. FirstNet has established key performance indicators (KPIs), security deliverables and performance metrics that will give FirstNet the assurance that cybersecurity is being implemented appropriately over the life of the NPSBN contract.

Question 12. Mr. Poth, it was stated by AT&T and FirstNet that Location based technology to solve the Z-axis (vertical) challenge would be delivered by 2020. This is a top priority for firefighters. Please provide a specific timelines for the deployment of this capability.

Response. The NPSBN contract with AT&T establishes a schedule that obligates AT&T to deliver specific services in accordance with the contractually imposed timelines (in this case, as noted, by 2020).

FirstNet and AT&T are in constant working discussions regarding the implementation of the Z-axis technology, primarily focused on our nations' firefighters. Z-axis (vertical), also known as 3D Geolocation, is an emerging technology with public and private resources being invested to speed innovation and research in the field. FirstNet is working closely with our federal partner, the Public Safety Communications Research program (PSCR), in accelerating this capability by collaborating with location-based services experts across academia, industry and government.

FirstNet has made this a priority, and will continue to work with AT&T to find an optimum technological solution within reasonable timelines aligned with the technology roadmap.

- a. Mr. Poth, how will FirstNet measure and publicly report on meaningful progress towards delivery of this technology?
- b. Mr. Poth, if the 2020 deliverable date is at risk, how will FirstNet mitigate that risk and will penalties be imposed?

Response a. FirstNet in conjunction with our partner, AT&T, plans to continue to report on Z-axis solution progress through forums such as briefings to Congress, public statements from FirstNet's Board meetings, press releases, social media and blog post updates.

The NPSBN contract requires AT&T to provide deliverables and reports on status of services as they are implemented. FirstNet has the responsibility to monitor and oversee AT&T in the delivery of the services.

- b. The NPSBN contract holds AT&T to the milestones identified in the timelines established. AT&T must provide a service in accordance with the contract terms and conditions, and if AT&T does not perform, there are penalties identified within the contract (e.g., payments to AT&T withheld).

Question 13. Mr. Poth, First Net and AT&T have indicated that their "pricing" will be competitive. With the potential to monetize Band 14 through shared usage, do you expect revenue to be sufficient to offer free services to first responders?

Response. We do not expect FirstNet services to be free at this time. FirstNet service will be competitively priced with the market.

Response to Written Questions Submitted by Hon.
Deb Fischer
Written Questions for the Record to
Michael Poth

Question 1. Mr. Poth, as you know, FirstNet is required by the Spectrum Act to look at existing technologies as a way to contain costs and leverage existing assets. I am interested in pilot projects the Department of Homeland Security is conducting with local public television stations. These pilots allow broadcasters to provide critical public safety information to local, state, and national first responders through the use of secure datacasting technology. The over-the-air broadcast signals, which is how the data would flow, already reach 97 percent of U.S. households. It seems like this technology has the potential to save taxpayer dollars and ensure that most Americans can access public safety information. What steps are you taking to incorporate public television's public safety datacasting capabilities as you deploy the FirstNet network?

Response. FirstNet and AT&T continue to look at new and emerging technologies that could be leveraged to deliver needed services for public safety, including datacasting. FirstNet recognizes that technology evolves rapidly and new opportunities can always arise. Innovation is core to our mission and will remain a focus for the duration of the network.

Response to Written Questions Submitted by Hon.
Ron Johnson
Written Questions for the Record to
Michael Poth

Question 1. The Middle Class Tax Relief and Job Creation Act of 2012 requires that FirstNet leverage commercial infrastructure including by establishing roaming agreements with wireless service providers. I am happy to see that FirstNet's contract with AT&T leverages that carrier's commercial infrastructure. *Does FirstNet anticipate establishing roaming agreements with other wireless carriers which would enable it to leverage the infrastructure of a broader base of wireless competitors?*

Response. Yes. As part of its winning bid to buildout the FirstNet network, AT&T teamed with other small and rural wireless carriers to extend infrastructure beyond its existing footprint. Additionally, AT&T maintains the ability to expand and continue to partner with small and rural providers to extend coverage through roaming agreements and other infrastructure partnerships through the life of the 25-year contract.

Question 2. I have been pleased with FirstNet's progress, particularly the fact that it has remained on or below budget. *Will you commit to continue to be a responsible steward of American taxpayers' dollars and not request additional funding from Congress?*

Response. Yes. Congress has FirstNet's commitment to be a responsible steward of American taxpayers' dollars, and we do not intend to request additional Federal funding from Congress. With FirstNet's partnership with AT&T, it is a fully-funded, self-sustaining Network. In return, America's public safety responders will receive specialized services far above and beyond what they have today over a first-class broadband network dedicated to their communications needs. In addition, this innovative public-private partnership will create many new jobs and ensure public safety has a voice in the growth and evolution of the Network.