

**WRITTEN TESTIMONY OF  
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DEPUTY SECRETARY  
UNITED STATES DEPARTMENT OF COMMERCE**

**OVERSIGHT HEARING ON FIRSTNET:  
“THREE YEARS LATER: ARE WE ANY CLOSER TO A NATIONWIDE PUBLIC  
SAFETY WIRELESS BROADBAND NETWORK?”**

**COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION  
UNITED STATES SENATE  
March 11, 2015**

Good morning Chairman Thune, Ranking Member Nelson and Members of the Committee. Thank you for inviting me to testify on the First Responder Network Authority (FirstNet) and its progress and challenges in establishing a public safety broadband network. I feel a special affinity for FirstNet because I worked on the staff of this Committee when Senator Rockefeller and Senator Hutchison originally conceived of FirstNet and drafted the original authorizing legislation.

As we all know, the mission of FirstNet arose in the wake of the 9/11 attacks, when the work of our brave first responders was seriously impaired by problems with communications. We at the Department of Commerce (Department) are proud of our role in helping to stand up this important program, and the Department plays an active role in overseeing and supporting FirstNet. This is a difficult mission, but we are confident that FirstNet is making strong progress towards meeting its goals.

FirstNet’s Mission and Structure

In 2012, Congress passed legislation as part of the Middle Class Tax Relief and Job Creation Act (Act) calling for the construction of a nationwide, interoperable wireless broadband network for public safety first responders. This network, a key recommendation of the 9/11 Commission, will allow police officers, fire fighters, emergency medical service professionals, and other public safety officials to communicate with each other across agencies and jurisdictions. The Act established FirstNet as an independent authority within the National Telecommunications and Information Administration (NTIA), which is part of the Department, to develop, operate, and maintain the much-needed public safety wireless broadband network.

FirstNet is headed by a 15-member Board responsible for making strategic decisions about FirstNet’s operations. The U.S. Attorney General, the Director of the Office of Management and Budget, and the Secretary of the Department of Homeland Security serve as ex-officio members of the FirstNet Board. In addition, the Secretary of Commerce appoints 12 non-permanent members of the FirstNet Board, with a statutory requirement to include representatives of state and local governments and the public safety community. We have been tremendously fortunate

to have had a strong and dedicated Board to help steer FirstNet through its initial formation and now into its deployment phase.

FirstNet is a unique entity in the Federal Government, and a unique and one of the most significant initiatives in the Department's portfolio. It has a novel structure, with a mix of Board members from both the public and private sectors and placement as an independent entity within NTIA. Under the Act, FirstNet also has a statutory exemption from some Federal requirements but not others; and the ability to leverage auction proceeds, spectrum leases, and user fees to succeed. Since FirstNet's inception, the Department has made the success of FirstNet's important mission a top priority. It is important to remember that FirstNet is a start-up with the challenge of standing up a self-sustaining, nationwide, interoperable, world class telecommunications network, within the applicable rules and regulations of the Federal Government. Suffice it to say, that has its challenges.

### Departmental Support of FirstNet

The Department has been actively involved in supporting FirstNet and overseeing its activities. During its earliest days, FirstNet depended heavily on Department and NTIA staff for administrative and program support. Now that FirstNet is maturing as an organization, there is less of a need for such involvement in FirstNet's day-to-day activities.

The Department and NTIA, however, continue to offer support and guidance to FirstNet on its strategic development. Secretary Pritzker and I have engaged personally on FirstNet, and she has leveraged her experience creating and running private-sector companies to help FirstNet. For example, we led a collaborative process with FirstNet through which FirstNet developed a Strategic Roadmap and cost model validated by outside, independent experts.

The Department also provides certain legal, procurement, human resources, and administrative support to FirstNet, where it does not otherwise have the resources or direct authority to provide such services itself. In doing so, we seek to streamline and expedite Federal processes whenever possible and collaborate with FirstNet on creative solutions. For example, the Department worked with FirstNet to expedite its hiring by leveraging the Commerce Alternative Personnel System. The Department also assisted FirstNet with its procurements, facilitated efforts to identify appropriate larger-scale acquisition assistance for the future, helped FirstNet find office space, and worked closely with FirstNet to establish its administrative processes and functions.

NTIA and the National Institute of Standards and Technology (NIST), through their joint Public Safety Communications Research program, collaborate with FirstNet on standards, interoperability research and testing, and technical information sharing. NTIA also works with FirstNet on its compliance with the Act's provisions, working with FirstNet on its administrative functions as it gains its own capacities, and managing the annual independent audit of FirstNet. Additionally, NTIA has assisted FirstNet with putting into place appropriate internal controls, appropriate processes, and strong financial management systems. NTIA will continue to pay close attention to the implementation of the FirstNet operations.

NTIA also administers the State and Local Implementation Grant Program, which supports state, regional, tribal, and local jurisdictions' consultations with FirstNet on the deployment of the nationwide public safety broadband network. NTIA also collaborates with FirstNet on NTIA's other statutory requirements contained in the Act. For example, NTIA is responsible for reviewing and approving FirstNet's fee structure annually, developing a state opt-out construction grant program, and developing a Next Generation 9-1-1 grant program.

### Office of Inspector General's Report

In December 2014, the Department's Office of Inspector General (OIG) issued an Audit Report regarding the management of certain financial disclosure reports and the monitoring of FirstNet contracts. The Department appreciates the effort reflected in this report and takes these matters seriously. The Department concurred with the OIG's recommendations and has taken a number of steps to address them, which I discuss below. With respect to both ethics and contracting, however, it is important to emphasize that the report focused on issues arising from FirstNet's early operations and to highlight the Department's full efforts in anticipating and addressing these issues.

As Congress recognized when it established FirstNet, this ambitious project would require both public-sector and private-sector expertise, and would require that Board members have deep technical expertise in wireless broadband communications and experience in building, deploying, and operating commercial telecommunications networks. Accordingly, FirstNet was created with a unique governance structure that includes both public-sector and private-sector Board members. Many of these Board members sacrificed in a number of ways, including financially, to serve FirstNet's public safety goals. The private-sector Board positions provide the Board, and FirstNet as a whole, with significant and deep private-sector experience in the telecommunications industry. To stand up a network, it is critical that we have Board members with substantial industry experience. However, to get people with extensive private-sector experience, it was likely that such Board members would retain interests and affiliations within the telecommunications industry, thus creating a need to consider carefully potential conflicts of interest.

The Department addressed this issue through a robust ethics program that worked closely with FirstNet Board members to counsel them regarding their employment and financial interests, even before they entered government service. Although some administrative requirements may not have been fulfilled with respect to filing certain financial disclosure reports timely, Board members made the material disclosures necessary to identify and address potential conflicts. Notably, the OIG report did not identify violations of conflict of interest laws or circumstances that actually affected FirstNet decision-making.

Regarding contracts issues, it is important to note that the early FirstNet contracts resulted in valuable work product that has been critical to the rapid establishment of the organization. During FirstNet's early days, like most start-ups, it sought and received first-rate feasibility research, technical analysis, strategic planning, and outreach services from highly specialized consultants, whose work product has laid the groundwork for executing FirstNet's mission.

To be clear, administrative errors were made along the way, and the Department takes those mistakes seriously. The Department has taken significant steps to address these errors. For example, we are implementing increased review of financial disclosure reports filed by FirstNet Board members and staff, increasing the level of review of potential conflicts arising from FirstNet acquisitions and other matters, and working to ensure that FirstNet and Department employees receive appropriate ethics training. In addition, we have provided additional training to and oversight of the Department Contracting Office handling certain FirstNet contracts.

Since FirstNet's inception, the Department, NTIA, and FirstNet have strived to stand up and operate this start-up organization in a compliant and first-rate manner. Over the past year, FirstNet has grown significantly in its organizational structure, and this growth has provided greater resources, rigor, and oversight in the management of its operations. FirstNet is now in a stronger position to supplement the Department's efforts to implement policies and procedures, and exercise its own governance and oversight that provide clear direction and structure for the organization. I also think it is important that we specially emphasize our appreciation to the private-sector Board members. These private citizens are making significant sacrifices for a noble goal, and trying to do it the right way. They deserve our appreciation.

### Continued Progress

With support from the Department and NTIA, FirstNet has made strong progress. FirstNet's ability to make progress on deploying the network is further enhanced now that FirstNet is fully funded under the Act's provisions. Proceeds from the Federal Communications Commission's recent AWS-3 auction will provide the full \$7 billion provided for FirstNet under the Act. FirstNet is achieving its milestones according to the Strategic Program Roadmap related to state consultations, requests for network proposals, and public notice and comment. This coming year will be critical, as FirstNet pivots to a new phase focused on developing and deploying its network. To be clear, we know and understand that the FirstNet mission will not be fulfilled quickly. We want FirstNet to set ambitious, but realistic time frames and deadlines. And we understand that some internal deadlines have not and will not be met. None of that undermines the hard work being performed by the terrific team in place at FirstNet.

### Conclusion

Creating a multibillion dollar, interoperable, nationwide, public safety wireless broadband network is a major undertaking. We take our responsibility for this project very seriously. Senior leadership from the Department, NTIA, and FirstNet meet on a regular basis to discuss current status of FirstNet's project milestones, potential risks, and upcoming actions. The Department and NTIA will continue to play a key support and oversight role to help ensure that FirstNet succeeds in its important mission.

Thank you again for the opportunity to discuss FirstNet's progress and challenges in establishing a public safety wireless broadband network. As you can see, FirstNet is making strong progress towards its goals. I appreciate the Committee's time and welcome questions.