



# Get the FirstNet Facts

## FACTS ABOUT FIRSTNET: OUR NATION'S PUBLIC SAFETY BROADBAND NETWORK

### What is FirstNet and what is its statutory mission?

FirstNet is an independent federal authority with a statutory duty and responsibility to take all actions necessary to ensure the building, deployment, and operation of the Nationwide Public Safety Broadband Network (“Network” or “NPSBN”) based on a single, national network architecture. FirstNet was established by the Middle Class Tax Relief and Job Creation Act of 2012 (“Act”) in response to public safety advocacy. FirstNet’s statutory responsibility is to establish the NPSBN, which includes not only the Core Network, but also the Radio Access Network (RAN) in each state or territory, whether deployed by FirstNet or potential opt-out states.

### What are the key elements of the Network?

The Act identifies two separate components that initially comprise the NPSBN: the Core Network and the RAN. Under the Act, FirstNet is responsible for ensuring that all components of the NPSBN, including the Core Network and the RAN, are built, deployed, operated, and maintained, and, ultimately, that the NPSBN provides services to public safety entities throughout the nation.

In particular, the Act made FirstNet the sole entity responsible for deploying a Core Network to serve public safety users. However, the Act requires governors to choose whether to have FirstNet manage and remain fully responsible for the RAN deployment within the state or – upon successful completion of a statutorily mandated approval process – assume full responsibility (e.g. financial, risk, construction, operational, legal) for RAN deployment (“opt-out”).

### Have any states decided to “opt out” and build their own RAN?

To date, no state or territory has decided to opt-out of the FirstNet network, over half have selected the FirstNet Plan (“opt-in”). While some states have issued RFPs as part of their due diligence around the deployment of the RAN in their state, to date, no governor has chosen to opt-out of the FirstNet RAN plan. FirstNet has supported states and territories doing their due diligence to ensure that the governor is able to make the most informed decision about deploying the RAN in his/her state or territory.

### Can opt-out states keep the revenue from their RAN to fund projects that are not related to the public safety broadband network?

No. As required by the Act, any revenue received by the opt-out state from the use of the Band 14 spectrum must be used for the state-built RAN and NPSBN only. The Act does not allow the opt-out state to retain or use excess revenue for any other purposes.



## Beyond the 90-day decision period, do states have an additional 180 days to make a decision, if they choose to opt-out?

No. The Act establishes that a Governor must decide within 90 days of receiving official notice of its State Plan from FirstNet whether to opt-out of the FirstNet State Plan and take on the responsibility of building, operating, maintaining, and upgrading the state RAN. FirstNet provided notice on Sept. 29 to the states, and their Governors now have until Dec. 28 to make their respective decisions.

If a Governor elects to opt-out, the law provides 180 days for the state to develop an alternative RAN deployment plan and, pursuant to a Federal Communications Commission (FCC) order, 60 additional days to submit the alternative plan to the FCC for review and approval. The intent of the 180-day period is for the state to focus on the development of its RAN plan; it is not aimed at extending the decision process or introducing additional delays to delivering the Network to public safety.

## If a state elects to opt out, how long could it take for first responders to access public safety specific services in the state?

An opt-out decision will delay the availability of network services, such as priority and preemption, to the state's first responders. This means they will have to wait to access public safety specific services until successful completion of the state's opt-out process and subsequent RAN deployment, or reversion to an opt-in situation if the state fails to obtain FCC approval. Current timelines suggest a delay of approximately two years before RAN deployment begins in an opt-out state. Conversely, by opting in, the state's public safety entities have immediate access to priority services, with preemption capabilities expected by the end of 2017.

## What is a Spectrum Manager Lease Agreement (SMLA) as it relates to a state's opt-out decision?

FirstNet's enabling legislation requires that upon successful completion of the approval process, an opt-out state must enter into a SMLA with FirstNet to access and use FirstNet's licensed spectrum. The terms and conditions of the SMLA reflect legislative requirements, standard telecommunications industry regulations, and the critical role of the Network in supporting public safety communications.

## What terms and conditions will a state be held accountable to under a SMLA with FirstNet?

Building, operating, maintaining, and improving the RAN portion of the Nationwide Network is a substantial responsibility – a massive telecommunications infrastructure project that cannot fail our nation's first responders. The SMLA is designed to make sure this critical public safety mission is achieved and that the network is sustainable for 25 years. The SMLA includes comparable terms and requirements to those that FirstNet's network contractor is contractually bound and accountable for in opt-in states. *In other words, we are asking no more of an opt-out state than what we are requiring of our NPSBN contractor to ensure the sustainability, interoperability, and security of the Network for public safety.*

## Are states/territories being penalized or required to pay a fee to opt-out?

By law, FirstNet must ensure the building, deployment, operation, and improvement of the NPSBN in every state and territory without further funding from Congress. To support this requirement, the Act provides FirstNet with a license to valuable spectrum and requires any revenue received by FirstNet from the use of the spectrum be reinvested solely in the Network. Under the NPSBN contract, FirstNet achieves the Act's goal for a self-sustaining Network, in part, by receiving substantial and guaranteed payments from AT&T for use of the spectrum over the next 25 years.



An opt-out state that seeks to use FirstNet’s spectrum must make payments in the amounts that would have been received for use of the spectrum in that state under the NPSBN contract. This ensures public safety across the country will continue to benefit from at least the same level of reinvestment in the network through the next 25 years as they would have under the contract.

## **Why will opt-out state contractors be responsible for meeting public safety user adoption targets?**

The power of the NPSBN will lie in first responders’ use of the network. Public safety adoption of the Network is essential to FirstNet accomplishing its mission as entrusted by Congress. Under the NPSBN contract, FirstNet’s partner is contractually committed to public safety subscribership levels, or adoption targets, on the Network, including the RAN. This commitment helps ensure that the NPSBN and the spectrum allocated by the Act are used by public safety subscribers as intended, at certain minimum levels.

Under the SMLA, the state or territory’s contractor(s) is responsible for meeting the same public safety user adoption targets as those established under the NPSBN contract. Requiring the state’s RAN contractor(s) to meet the same targets preserves the fundamental goals of public safety use of the Network and the spectrum licensed to FirstNet at the levels guaranteed in the NPSBN contract.

## **What are the risks associated with the failure of a RAN in an opt-out state? How is this addressed in the SMLA?**

Any failure of a state-built RAN over the next 25 years imposes considerable costs and risks on the nationwide network and public safety, impacting both the state and every other state. Under this scenario, FirstNet would incur the costs of reconstituting the RAN, including potentially finding another vendor, so that public safety users could continue to perform their life-saving missions with minimal disruptions to their communications. To mitigate the consequences of a RAN failure, the SMLA would require the state to pay the full cost of reconstituting the RAN in the state and operating it for the remainder of the agreement’s term. FirstNet has provided estimates of these potential costs to the states to promote transparency and increase their understanding of the significant responsibility of deploying, operating, and maintaining the RAN. These estimates reflect building and operating a new Band 14 RAN for the remainder of the SMLA term given the likely technical, operational, and financial complications that a new provider would face in reusing any components from a failed RAN and the significant ongoing RAN operating costs.