

RESOLUTION OF THE

NAABIK'ÍYÁTI' STANDING COMMITTEE OF THE
23RD NAVAJO NATION COUNCIL - Fourth Year, 2018

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT, LAW AND ORDER AND NAABIK'ÍYÁTI'; REQUESTING FIRSTNET AND AT&T, IN DEVELOPING NATIONWIDE PUBLIC SAFETY BROADBAND NETWORK TO RECOGNIZE AND ACCEPT NATION-TO-NATION RELATIONS; REQUESTING AN ASSESSMENT AND STRATEGIC PLAN FROM NAVAJO NATION PUBLIC SAFETY AND TELECOMMUNICATIONS PROGRAMS

WHEREAS:

- A. The Resources and Development Committee of the Navajo Nation Council is responsible for overseeing communications and utilities within the Navajo Nation, among other duties and responsibilities. 2 N.N.C. § 500 *et seq.*
- B. The Law and Order Committee of the Navajo Nation Council oversees matters relative to public safety within the Navajo Nation, among other duties and responsibilities. 2 N.N.C. § 600 *et seq.*
- C. The Naabik'íyáti' Committee of the Navajo Nation Council, among other duties and responsibilities, generally oversees matters relative to the federal government and agencies of the various other governmental agencies. 2 N.N.C. § 700 *et seq.*
- D. First Responder Network Authority, FirstNet, was established by Congress to ensure that all police officers, firefighters and emergency medical services personnel in the United States, including Indian Nations, have a nationwide broadband network. See Exhibit "A." See also, www.FirstNet.gov. Regarding the deployment and operation of the nationwide broadband network (a multi-billion dollar venture), FirstNet must work and consult with Indian governments, their leaders and public safety programs (as well as with states). *Id.*
- E. AT&T was selected by FirstNet to assist and manage the nationwide public safety broadband network. *Id.*

NOW, THEREFORE BE IT RESOLVED THAT:

- A. The Navajo Nation hereby requests that FirstNet and AT&T, in planning and developing the nationwide public safety broadband network, consult with officials of the Navajo Nation in all phases of the project. In particular, FirstNet, and all its affiliates and designees:
1. Shall respect tribal sovereignty and acknowledge the principles and mandates of Nation-to-Nation consultation, as established by the federal government.
 2. Cooperate with all local officials in ensuring that wireless broadband is established at all 110 chapters of the Navajo Nation.
 3. Continue the cooperative partnership with the states of Arizona, New Mexico and Utah in respecting Indian sovereignty and recognizing and accepting consultation requirements of the nationwide broadband network project.
 4. Set several meetings with officials of the Navajo Nation, including members of the Resources and Development and Law and Order committees.
- B. The Navajo Nation Division of Public Safety, its various departments, the Navajo Nation Telecommunications Regulatory Commission and the Navajo Nation Telecommunications and Utilities program shall no later than 90 days hereof, jointly produce an assessment of all 110 chapters on the development of FirstNet's Nationwide broadband network project. The assessment shall include the needs of each chapter insofar network plans of FirstNet, and shall be presented to the Resources and Development and Law and Order committees.
- C. The Navajo Nation Division of Public Safety shall no later than 90 days hereof develop and present to the Resources and Development and the Law and Order committees a strategic plan regarding FirstNet's nationwide broadband network project, including its initial planning stage, its development and its implementation.

CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti' Committee of the 23rd Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 13 in Favor and 01 Opposed, on this 22nd day of February, 2018.

A handwritten signature in black ink, appearing to read "LoRenzo C. Bates", written in a cursive style.

LoRenzo C. Bates, Chairperson
Naabik'iyáti' Committee

Motion: Honorable Raymond Smith, Jr.

Second: Honorable Walter Phelps

Chairperson Bates not voting



First Responder Network Authority Tribal Consultation Policy

October 2017



Preface

The First Responder Network Authority (“FirstNet”) respects the nation-to-nation relationship that exists between federally recognized Indian tribes¹ and the United States government. The purpose of this policy is to establish a foundation for honoring tribal sovereignty, accompanied by productive and long-lasting communications, consideration, and engagement with tribal governments surrounding the deployment and operation of the nationwide public safety broadband network (“NPSBN”; the “FirstNet network”). Congress has tasked FirstNet to deploy a nationwide public safety broadband network to bring mission critical data with quality of service, priority, and preemption to public safety entities. However, public safety entities, including those of sovereign tribal nations, are not required to subscribe to FirstNet services or purchase devices. This freedom also applies to tribes that have land within any state that chooses — and receives approval from the Federal Communications Commission (“FCC”), National Telecommunications and Information Administration (“NTIA”), and FirstNet — to deploy the radio access network (“RAN”) portion of the NPSBN at state expense (i.e. “opt out”). Although FirstNet will operate as a public-private partnership between the federal government and AT&T, this unique arrangement does not lessen FirstNet’s commitment to the inclusion of Indian country, Alaska Native villages, and Oklahoma tribal statistical areas throughout all phases of its development.

Phases

The Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. § 1401 *et seq.*) (“the Act”) established the duties and responsibilities of FirstNet to develop the NPSBN in consultation with public safety stakeholders. FirstNet’s tribal consultative practices divide into two phases: pre- and post-decisional. The decision — to be made by the governors of each state, every territory, and the District of Columbia (referred to collectively as “states” and individually as “state”) — is in response to a state-specific network deployment plan proposed by FirstNet, in conjunction with AT&T. Governors must decide who will be responsible for building, operating, and maintaining the in-state portion of the NPSBN (referred to as the aforementioned RAN). This choice is whether to — opt-in (to the FirstNet/AT&T proposal) or opt-out (and submit a state-developed alternative plan for consideration).

Upon formal notice of the state-specific network deployment plan (“state plan”) delivery to all governors, each will have 90 days to decide whether to opt in or opt out of the FirstNet-proposed RAN deployment. The months leading up to and during this pre-decisional period are important for all interested stakeholders, including tribal nations. It is an opportunity to engage with governor-designated state points of contact (“SPOCs”) for inclusion in the gubernatorial decision-making process. All state consultation undertaken specifically in preparation for delivery of those tailored state plans will be conducted through the SPOCs, as mandated by the Act. However, tribal governments may also request informational meetings with FirstNet’s national and regional tribal liaisons during the pre-decisional phase.

¹ “‘Indian tribe’ means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. § 1601 *et seq.*], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.” 25 U.S.C. § 5304(e) (formerly cited as 25 U.S.C. § 450(b)).



The importance of remaining engaged will grow in the post-decisional phase. Following each governor's decision, FirstNet will interact directly with stakeholders, customers, as well as embrace nation-to-nation consultation between FirstNet and tribal governments. FirstNet will have an ongoing desire for information related to where network connectivity is needed to support public safety and the services that would be beneficial for tribal public safety entities. This tribal-specific information will help influence RAN deployment and maintenance throughout the network's existence. Representatives from AT&T — and/or its subcontractors — may observe discussions between FirstNet and tribal-designated officials, subject to tribal government approval, and tribal-designated officials may also invite tribal business/community stakeholders whom they deem important and necessary participants.

Described below is FirstNet's tribal engagement protocol for the pre-decisional phase, followed by the establishment and exercise of a nation-to-nation consultation policy between FirstNet and tribal nations in the post-decisional phase and, until this policy is amended, continued throughout FirstNet's existence.

Tribal Consultation

Pre-decisional

Prior to a state governor's decision on RAN deployment, FirstNet will continue to follow the tribal-specific consultation requirements established by Congress under FirstNet's enabling legislation. In the pre-decisional phase of RAN deployment, FirstNet may consult directly with a tribe if a tribe requests a meeting and the state SPOC is present, or is invited but chooses not to be present. FirstNet staff may otherwise meet with tribal officials and/or designees for the purposes of outreach, education, and engagement.

FirstNet staff — including but not limited to its national and regional tribal government liaisons — will continue to meet with tribes at their request to discuss tribal-specific matters while keeping SPOCs apprised of the general outcomes of such discussions.

Post-decisional

Following state governors' opt-in/out decision on RAN deployment, FirstNet intends to institute regular and meaningful consultation and collaboration with tribal officials and/or designees in policy decisions that have tribal implications. As described in Executive Order 13175², the nation-to-nation tribal consultation process will establish and recognize the fiduciary federal trust relationship between the United States government and federally recognized tribal nations. In addition, tribal consultation sessions held with tribal governments will be for the purposes of gathering recommendations and providing solutions to address the needs of public safety communications on tribal lands. Where appropriate, this nation-to-nation consultation will include commensurate FirstNet participation.

² Exec. Order No. 13175, 65 Fed. Reg. 67,249, "Consultation and Coordination with Indian Tribal Governments" (Nov. 6, 2000).



FirstNet Core Principles for Consultation and Collaboration with Tribes

Under this policy, consultation is a process whereby FirstNet and federally recognized tribal governments meet and confer to exchange views, deliberate, and seek common ground resulting in the adoption of mutually beneficial policies and attainment of sustainable outcomes related to the NPSBN. The purpose of this FirstNet nation-to-nation consultation policy is to ascertain tribal concerns and benefit from recommendations related to all aspects of the FirstNet network. FirstNet will engage in tribal consultation on network issues that impact tribes in accordance with the following principles:

- **Collaboration.** FirstNet is committed to interacting with federally recognized tribes on a nation-to-nation basis. It will demonstrate mutual respect and the development and maintenance of meaningful, productive dialogue, as described by Executive Order 13175.
- **Communication.** Candid, yet respectful, discourse is essential. This works best when undertaken in the formative and final phases of substantive decision-making, as well as when changes in leadership arise. Sincere efforts to be inclusive and allow sufficient time for appropriate participation are vital. When a matter involves confidential or culturally sensitive information, FirstNet and tribal officials and/or designees will thoughtfully approach such discussions to ensure they proceed in a culturally and legally appropriate manner. In-person meetings among appropriate party representatives is vital, whenever feasible.
- **Inclusion.** FirstNet has designated a member of its Board as a tribal liaison, as well as employing national and regional tribal government liaisons, for the purposes of policy coordination, information dissemination, and engagement at all levels. Furthermore, the Tribal Working Group ("TWG") — a group of appointed delegates representing various international, national, regional, and intertribal associations with interests in tribal public safety — will continue to operate in accordance with its charter under the Public Safety Advisory Committee ("PSAC") and with the oversight and participation of FirstNet leadership and the Board. The TWG serves as a forum for policy discussions relevant to FirstNet and tribes. Delegates serve as liaisons from their organizations, to and from which information, concerns, and considerations are shared between FirstNet and association leadership.
- **Timely Notice.** Tribes or FirstNet may request consultation. All reasonable attempts will be made to coordinate listening sessions, consultations, or staff meetings in a timely manner. Accommodations should be made for the duration of internal administrative processes and scheduling constraints for all parties. Tribes are located in far-ranging and often remote regions, underscoring the necessity for adequate notice of meetings that will require travel. Tribal officials and/or designees will be contacted as early as possible to provide adequate time for response, and to respect tribal protocols and cultural practices that require deliberation and consensus, often among diverse segments of the tribe.



FirstNet Implementation of Tribal Consultation Policy

- This Tribal Consultation Policy shall not be construed to alter, amend, interpret, modify, or repeal tribal sovereignty, any treaty rights of any Indian tribes, or to limit, modify, or preempt the exercise of any such rights.
- Although AT&T will have a vendor-to-customer relationship with tribal public safety entities, FirstNet will establish and maintain a nation-to-nation relationship with federally recognized tribal governments, as stipulated by Executive Order 13175.
- FirstNet shall update this tribal consultation policy, as necessary.

Dear Honorable Tribal Leaders:

The First Responder Network Authority (FirstNet) is pleased to provide you with the FirstNet Tribal Consultation Policy. FirstNet respects the nation-to-nation relationship that exists between federally recognized Indian tribes and the United States government. In partnership with the Public Safety Advisory Committee's Tribal Working Group, FirstNet adopted this Tribal Consultation Policy to establish a foundation for honoring tribal sovereignty and promote productive communications, and engagement with, and consideration of, tribal governments regarding the deployment and operation of the nationwide public safety broadband network (NPSBN).

On October 18, 2017, FirstNet announced the Tribal Consultation Policy at the National Congress of American Indians (NCAI) General Assembly Session. The Tribal Consultation Policy was made available on the FirstNet website on October 23, 2017 and is available for download at <https://firstnet.gov/consultation/tribes>.

Tribal officials may request a formal consultation with FirstNet on matters related to the NPSBN that are consistent with this policy. To request consultation, tribal governments should submit a written delegation of authority request signed by tribal leadership to FirstNet by mail or email to:

Tribal Consultation
First Responder Network Authority
12201 Sunrise Valley Drive, Stop 243
Reston, VA 20192-0002

-OR-

tribal.consultation@firstnet.gov

FirstNet will evaluate the tribal government's request, acknowledge receipt of the request, and coordinate the consultation, as appropriate.

If you have any questions regarding the FirstNet Tribal Consultation Policy or FirstNet's consultation activities with federally recognized tribal governments, please contact one of the following tribal liaisons:

Andrew Bielakowski
Federal Preservation Officer
Nationwide, NHPA Sec. 106
andrew.bielakowski@firstnet.gov
202-657-7982

Margaret Gutierrez
Tribal Government Liaison
Regions 1-8
margaret.gutierrez@firstnet.gov
202-738-8344

Adam Geisler
Tribal Government Liaison
Regions 9-10
adam.geisler@firstnet.gov
202-631-1188

We thank you for your engagement to date and look forward to continuing to strengthen the relationship between FirstNet and tribal governments to protect and advance the NPSBN in American Indian and Alaska Native communities.

Sincerely,



David Buchanan
Director of Consultation
First Responder Network Authority



Tribal Governments Outreach Frequently Asked Questions (FAQs)

WHAT IS THE FIRST RESPONDER NETWORK AUTHORITY (FIRSTNET)?

FirstNet was established by Congress to ensure that public safety has a nationwide broadband network (more simply, the FirstNet network). The FirstNet network is expected to be operational in late 2018, with full operational capability anticipated by 2022. FirstNet network subscribers—be they federal, tribal, state, municipal, individual, or private sector—will include paid and volunteer emergency medical services, fire services, and law enforcement among others. Subscriber rates will be competitive with commercial carriers, and individual agencies will choose whether or not to subscribe. This nationwide, secure, wireless broadband network will not be taxpayer funded.

HOW WILL FIRSTNET HELP MY TRIBE?

FirstNet is gearing up to make your community safer—and help protect those who risk their lives in service to others, who safeguard sacred sites, and who watch over our natural resources. FirstNet plans to achieve this by giving responders all across the country a means of communicating securely and reliably with one another. This communication will include vital data, such as photographs and video, real-time patient medical information, arrest records, floor plans, and maps. Improved spoken communications and data exchange will change how public safety functions.

WILL FIRSTNET CONSULT WITH MY TRIBE?

Yes, but Congress limited FirstNet's authority to consult directly with tribes. Nation-to-nation consultation between the federal government and tribal governments *is* being undertaken in full compliance with Section 106 of the National Historic Preservation Act (NHPA). The act that established FirstNet, however, requires that planning for its nationwide network deployment occur in consultation with single points of contact (SPOCs) appointed by the governors in all 50 states, five territories, and the District of Columbia. SPOCs are responsible for coordinating with all public safety stakeholders within the boundaries of those jurisdictions, to include tribes.

HOW MUCH WILL FIRSTNET COST?

The cost of FirstNet devices and services will be competitive with commercial carriers. Since no public safety entity will be required to use FirstNet, it will be necessary to demonstrate value to earn customers. Exact pricing for services and devices can only be determined after FirstNet awards its contract to a private sector partner.

WILL MY TRIBE HAVE FIRSTNET WIRELESS COVERAGE?

Possibly...the likelihood increases with your tribe's participation in planning being coordinated at the state level. This planning identifies where first responders need broadband coverage and capacity. FirstNet staff are working with SPOCs—who should be working with you—to establish coverage objectives and priorities. Please do not delay in contacting FirstNet if you desire assistance. Although the act that Congress passed requires FirstNet to substantially cover rural America, the United States is a big country with many rural areas. Identifying and explaining your tribe's desired coverage is critical if FirstNet is to know your needs and understand their importance.

WILL FIRSTNET USE MY EXISTING INFRASTRUCTURE?

Possibly...but the extent to which tribally owned infrastructure may be used will be determined after a private sector partner has been awarded the FirstNet contract. The act that established FirstNet does require leveraging existing infrastructure wherever economically feasible to reduce costs and expedite deployment. One factor influencing feasibility will be whether existing infrastructure complies with public safety grade standards. Those specifications are being refined.

ARE THERE BUSINESS POSSIBILITIES FOR PARTICIPATING IN FIRSTNET?

Yes. A nationwide broadband network dedicated to public safety is a multi-billion dollar venture demanding expertise in many NAICS (North American Industry Classification System) codes.

MUST MY TRIBE WAIVE ITS SOVEREIGNTY TO ACCESS THE NETWORK?

No. If, however, your tribe pursues contracting opportunities, businesses may insist on limited waivers of sovereign immunity. Conversely, should states be involved, you may demand that contract disputes be governed by the jurisdiction of federal courts, where appropriate.

WILL FIRSTNET ENHANCE MY CASINO'S SECURITY?

Yes, if FirstNet coverage exists and management chooses to subscribe and purchase devices.

WHERE CAN I FIND ADDITIONAL INFORMATION OR ASSISTANCE?

- For state single points of contact (SPOCs) see: <http://firstnet.gov/consultation>
- For the FirstNet Tribal Team contact Carl Rebstock, FirstNet's national tribal government liaison, at carl.rebstock@firstnet.gov or via his mobile phone at +1 202 657 2777
- To explore business prospects at <http://www.firstnet.gov/about/doing-business-firstnet>



Tribal Governments Outreach Additional Frequently Asked Questions (FAQs)



Does Firstnet Have a Tribal Consultation Policy?

Yes. FirstNet is revising its policies regarding the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA), and FirstNet is drafting a separate policy for all other nation-to-nation consultations. The last is being developed with input from the FirstNet Public Safety Advisory Committee (PSAC) Tribal Working Group (TWG).

How Do Tribes Request Cultural/Environmental Consultation?

Requests for NEPA/NHPA tribal consultation may be initiated by various means: in-person, telephonically, via email, or written letter. Contact either Genevieve Walker at genevieve.walker@firstnet.gov or +1 703 906 5637 or FirstNet Federal Preservation Officer (FPO) Andrew Bielakowski at andrew.bielakowski@firstnet.gov or +1 202 657 7982. Additionally, once site-specific information is known, FirstNet will engage in government-to-government consultation with federally recognized tribes, Alaska Native villages, or Native Hawaiian Organizations (NHO), as required by NHPA.



What Coverage Is Expected for Tribal Land?

There are no specific coverage goals for tribal lands. Coverage is pursued—nationwide—where it is needed. For us to know where the FirstNet network is needed by public safety, we need to hear from public safety. The best way for tribal officials make their coverage needs known is to communicate these to their state's single point of contact (SPOC; firstnet.gov/consultation/spoc) and the FirstNet tribal team (firstnet.gov/consultation/tribes).



What Will Firstnet Cost?

We know it will be reasonable. It is impossible to know specifics until after the FirstNet contract is awarded to an industry partner, however, we know the cost of devices and services must be competitive with the commercial market. Since there is no mandate to subscribe, every FirstNet user must be earned. Moreover, since the network will not be taxpayer funded, it must provide compelling benefits at attractive pricing.



When Will Services Be Available?

We anticipate the FirstNet network being operational by 2019, but at this stage it is impossible to know definitively. Once FirstNet has announced the award of its contract, the two next steps will be simultaneous delivery of state plans, followed by each governor's consideration of these proposals. The decision governors must make is who will construct and maintain the in-state portion of the national network: the federal government, at no expense to the state (i.e. "opt-in") or the state government, at its expense (i.e. "opt-out"). In either case, the network will be built. In the latter instance, construction is likely to be delayed. This delay will result from vetting of states' counterproposals by the Federal Communications Commission (FCC) and National Telecommunications & Information Administration (NTIA).



What Are the Implications for Tribes That Cross State Borders If One State “Opts In” but Another “Opts Out”?

Minimal. We anticipate that tribes residing in multiple states, regardless of where they are headquartered, will be free to pick their provider based upon the best value offered by either an “opt-out” state or FirstNet.



Can Tribes Expect Any Tribal-Specific Funding or Grants for Devices?

At this time, FirstNet does not anticipate offering funding or grants. Other federal agencies with tribal emergency management, homeland security, or public safety responsibilities may support expenditures for FirstNet products and/or services within their programs.



Who Defines Public Safety Users or Users Groups?

This matter is only partially resolved. It may entail a two-fold determination: confirmation of the type of user and validation of the user’s rights to access the network. Types of users will fall into one of two groups: “traditional” (i.e. emergency medical services, fire services, or law enforcement) or “extended” first responders (e.g. Alaska dental health aide therapists (DHATs), facility guards, public health technicians, or public works responders, and so forth). Who will validate legitimate users—those authorized to purchase devices and access services—will be decided in discussions with FirstNet’s industry partner, following award of the contract.

How Will User Priority Work on Tribal Land?

User priority on or off tribal lands will only differ based on whether the responder is deemed to be a traditional or extended user (see above). Traditional public safety responders will receive the highest level of service.



Will Firstnet Build Towers On Tribal Land?

Yes, while adhering to NEPA/NHPA reviews and respecting the sovereignty of federally recognized tribes. Infrastructure buildout will be influenced by the public safety need, legislatively mandated rural buildout milestones, and existence of telecommunications infrastructure.

Three Things You Can Do.

- **Learn.** FirstNet is changing public safety communications—fast and in big ways.
- **Participate.** Governors need to know your tribe’s needs and opinions—especially now.
- **Share.** Talk about FirstNet: with colleagues, intertribal associations, Indian Country and others by contacting us at socialmedia@firstnet.gov to write a guest blog.

How Can I Stay Updated with Firstnet’s Latest Developments?

- For the latest news, read the FirstNet blog: <http://www.firstnet.gov/newsroom/blog>
- Follow FirstNet on Twitter @FirstNetGov
- For state single points of contact (SPOCs), refer to <http://firstnet.gov/consultation>
- For the Tribal Team, in FirstNet/FEMA regions I-VIII, contact Margaret Muhr at margaret.muhr@firstnet.gov or call/text +1 202 738 8344; in regions IX-X, contact Adam Geisler at adam.geisler@firstnet.gov or +1 202 631 1188; or Carl Rebstock, FirstNet’s national tribal government liaison, at carl.rebstock@firstnet.gov or +1 202 657 2777.
- To explore business prospects, visit <http://www.firstnet.gov/about/doing-business-firstnet>

NAVAJO NATION

RCS# 804

2/22/2018

Naa'bik'iyati Committee

04:07:55 PM

Amd# to Amd#

Legislation 0047-18: Requesting
Firstnet and AT&T, in developing
Nationwide Public Safety Broad-
band Network to recognize...

PASSED

MOT Smith

SEC Phelps

Yea : 13

Nay : 1

Excused : 0

Not Voting : 10

Yea : 13

Begay, K
Begay, NM
BeGaye, N
Chee

Damon
Daniels
Filfred

Phelps
Shepherd
Slim

Smith
Witherspoon
Yazzie

Nay : 1

Tsosie

Excused : 0

Not Voting : 10

Bates
Begay, S
Bennett

Brown
Crotty
Hale

Jack
Perry

Pete
Tso