



FEDERAL COMMUNICATIONS COMMISSION

May 19, 2011

JULIUS GENACHOWSKI
CHAIRMAN

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Upton:

Attached please find responses to the questions posed in your April 20, 2011 letter about the public safety equipment and devices market. I appreciate the opportunity to address your questions. You may also be interested in the FCC's Public Notice, issued on August 19, 2010, seeking comment on ways to increase public safety interoperability by promoting competition in the market for public safety communications technologies (PS Docket No. 10-168 - *Interoperability Proceeding*).

The Commission continues to examine closely the factors that affect the cost of public safety communications and interoperability. I look forward to working with you and your colleagues to ensure that public safety officials have the tools they need to communicate effectively on a day-to-day basis and during emergencies, especially in an increasingly broadband-dependent world.

Sincerely,

A handwritten signature in black ink, appearing to read "Julius Genachowski".

Julius Genachowski

Enclosure

Question

- 1. Please provide a list of waiver recipients and applicants that have already selected a vendor, and identify the vendor.***

Answer:

As a condition of receiving a waiver from the FCC, each waiver recipient is required to file a quarterly report (Report) with the Public Safety and Homeland Security Bureau (Bureau) that addresses, among other matters, the status of its procurement efforts.¹

Based on Reports filed through April 2011, the following waiver recipient has reported selecting a vendor (identified in parentheses) to construct its network:

- Cites of San Francisco, San Jose and Oakland, California (Motorola)²

In addition, waiver recipient the State of Texas stated in its application that it has selected Motorola for use in Harris County.

The following waiver recipients have reported that they are in the process of reviewing vendor proposals submitted in response to Requests for Proposal (RFPs) that they have issued to select the equipment vendor for its network:

- Adams County, Colorado
- Mississippi Wireless Communications Commission
- State of New Mexico
- Mesa, Arizona, and the TOPAZ Regional Wireless Collective
- Los Angeles Regional Interoperable Communications System

The Reports also show that the following waiver recipients have either issued RFPs or have otherwise engaged in discussions with potential vendors:

- Charlotte, North Carolina
- Pembroke Pines, Florida
- San Antonio, Texas, on behalf of the San Antonio Urban Area Security Initiative

Question

- 2. Please indicate whether these jurisdictions followed a competitive bidding process in the selection of the vendor to construct the broadband public safety network.***

¹ See Requests for Waiver of Various Petitioners to Allow the Establishment of 700 MHz Interoperable Public Safety Wireless Broadband Networks, PS Docket 06-229, *Order*, 25 FCC Rcd 5145, 5166 ¶ 64 (2010) (*Waiver Order*).

² This vendor was selected by the San Francisco Bay Area UASI, which represents a geographic area that encompasses the three cities that received a waiver for early deployment.

Answer:

The FCC does not require waiver recipients or applicants to delineate in their initial filings or in any subsequent reporting requirements whether they use or used a competitive bidding process to select a vendor because the agency does not oversee the acquisition or procurement practices of state and local governments. However, some of the waiver recipients have voluntarily provided information regarding their procurement practices to us. Waiver recipients the cities of San Francisco, Oakland, and San Jose, which comprise the Bay Area Urban Area Security Initiative (UASI), stated in the interoperability showing in their waiver application that they selected Motorola as their vendor “through a competitive process.”³ Los Angeles—another waiver recipient—stated in one of its Reports that it is proceeding with vendor selection through an RFP process. Waiver recipient the State of Texas, however, has submitted a filing that states that the agreement between Harris County, Texas, and Motorola is a sole source agreement.⁴

Question

3. *Is this vendor(s) supplying equipment that conforms with open, commercial LTE standards?*

Answer:

Under the FCC’s *Order* granting the waivers (*Waiver Order*), the FCC expressly required waiver recipients to use LTE, with a minimum 3GPP Standard, Evolved Universal Terrestrial Radio Access (E-UTRA) and associated Evolved Packet Core, Release 8.⁵ Accordingly, under the *Waiver Order*, a waiver recipient must ensure that any equipment it deploys uses this open, commercial LTE standard. Failure to meet this requirement would subject a waiver recipient to FCC enforcement action. Texas’s waiver application is subject to the same requirement that it use only equipment that conforms to the open, commercial LTE standard.

Question

4. *In addition to LTE, please indicate whether these vendors intend to implement proprietary broadband wireless technologies. If so, how would such proprietary technologies impact:*

- a. *Network and device equipment costs borne by public safety relative to commercial equipment;***
- b. *The ability for public safety to benefit from innovation in wireless technologies;***
- c. *The likelihood of terminated product lines or new mandatory releases that result in unique costs to public safety relative to commercial technologies;***
- d. *Public safety interoperability at the application, device, and network levels among networks provisioned by different vendors;***
- e. *The ability of public safety users to enter into partnerships with commercial wireless providers;***
- f. *Competition in the public safety communications equipment market; and***
- g. *The FCC’s National Broadband Plan finding that encouraging incentive-based partnerships with a variety of commercial operators would benefit public safety.***

³ See San Francisco Bay Area Urban Area, Interoperability Showing, at E-1 (July 16, 2010) (Bay Area Showing).

⁴ See Motorola Solutions, *Notice of Ex Parte*, Attachment at 1 (Apr. 8, 2011).

⁵ See Waiver Order at 5157 ¶ 38.

Answer:

The FCC does not have information to suggest whether or not vendors intend to implement proprietary broadband wireless technologies. We are concerned, however, that proprietary technologies could create obstacles to interoperability, innovation, decreased cost, the ability to partner with commercial operators, and competition in the market for public safety communications. Because of these concerns, we issued a public notice last year asking for comment on increasing public safety interoperability by promoting competition for public safety communications technologies. We are also examining similar issues in the confines of the *Interoperability Further Notice of Proposed Rulemaking*.⁶ We recognize, however, that the concerns about the use of proprietary technologies must be balanced against giving entrepreneurs the incentive to innovate and invest in creating new products if public safety is to have the benefit of commercial innovation. Accordingly, the FCC's primary focus has been ensuring the technical interoperability of the public safety broadband network. While the FCC's rules do not preclude a vendor from implementing proprietary technologies in the equipment they market to public safety, our requirements will ensure nationwide interoperability even if a vendor uses such technologies.

Question

5. *How would the construction of early deployed public safety networks by dominant vendors:*

- a. Be impacted by subsequent adoption of final technical and operations rules governing 700 MHz public safety broadband networks--would the public safety agency be responsible for paying for any and all network and device changes?***
- b. Affect achievement of a nationwide level of public safety interoperability at the device, application, and network levels?***

Answer:

a. Cost effect of adoption of final rules.

The FCC's *Waiver Order* requires, as a condition of grant, that waiver recipients comply with the FCC's final interoperability and other rules governing the public safety broadband network. Accordingly, all waiver recipients, regardless of the equipment vendors they use, will have to take whatever steps are necessary to meet these requirements if they deploy a public safety broadband network before the FCC adopts its final interoperability and other technical requirements. The issue of who would pay for any network or device changes needed to ensure compliance is a contractual matter between each waiver recipient and its equipment vendor.

⁶ Public Safety and Homeland Security Bureau Seeks Comment on Increasing Public Safety Interoperability by Promoting Competition for Public Safety Communications Technologies, PS Docket No.10-168, DA-10-1556 (released August 19, 2010).

b. Impact on interoperability at the device, application, and network levels.

The FCC's *Waiver Order* and the Bureau's *Interoperability Order and FNPRM* set forth baseline requirements to ensure that waiver recipients deploy and operate networks that will be interoperable on a nationwide basis, regardless of which vendor a waiver recipient uses. The requirements are technical and explicit in nature, and we expect the final rules to provide even greater specificity and scope with regard to interoperability at the application, device, and network levels.

The *Waiver Order* also requires waiver recipients to comply with any and all final FCC rules, including rules on interoperability at the application, device, and network levels. Accordingly, whether a network is deployed before the FCC adopts final interoperability rules or afterwards, the waiver recipients are obligated to satisfy the requirements that will ensure a nationwide, interoperable public safety broadband network, including with respect to applications and devices.