



September 7, 2012

Mr. David S. Turetsky
Chief, Public Safety and Homeland Security Bureau
Federal Communications Commission
445 12th Street, SW
Washington DC

DELIVERED VIA E-MAIL

RE: Application by Bay Area Regional Communications Systems Authority (BayRICS) for Special Temporary Authority (STA) to Use the Public Safety Broadband Spectrum (763-768 MHz/793-798 MHz)

Dear Mr. Turetsky:

Thank you for the opportunity to meet with you on August 30 regarding the Bay Area Regional Communications System (BayRICS). We support the recent ruling by the Federal Communications Commission (FCC) that, where it would clearly serve the public interest and not undermine Congress's goals or FirstNet's mandate, the Public Safety and Homeland Security Bureau should issue Special Temporary Authority (STAs) allowing public safety entities to use spectrum to move ahead with their existing projects to provide broadband services to first responders. On behalf of the dozens of Bay Area cities and counties served by this critical public safety project, we respectfully request the Bureau grant our request for an STA.

We believe BayRICS satisfies each of the criteria the Commission specified in identifying which public safety projects merit an STA. This letter provides you the information you requested to clarify our STA application. We anticipate that you will agree that BayRICS is "substantially deployed" and has assured funding.

We ask the Commission to look at the real public interest stakes for the entire Bay Region if this STA is not granted. BayRICS has spent several years getting to the point of near deployment. It is only a matter of a few months before we can begin testing cell sites, once NTIA releases the LTE related funds. We can get this system fully operating, in a manner fully consistent with FirstNet's ultimate interests, several years before FirstNet has any prospects of turning on a new or different system. Please don't take any action that places our citizens in Bay Area at such risk in the event of a major disaster.

We have included the most recent statement from NTIA which should assure the Commission that the system will be fully funded if the Commission grants BayRICS appropriate spectrum authority. However that NTIA funding is contingent on Commission action.

Turning to your specific questions, on August 20, 2012 the BayRICS Authority submitted an application for STA to use the above-referenced public safety broadband spectrum to deploy a public safety wireless broadband network within the geographical scope and jurisdictional limits of BayRICS's participating member agencies ("Application"). The Application was filed pursuant to the Commission's Order *In re Implementing Public Safety Broadband Provisions of*

the *Middle Class Tax Relief and Job Creation Act of 2012* (“Order”).¹ The Application, filed online via Form 601 through the Commission’s Uniform Licensing System (File Number 0005358161), included a narrative attachment addressing in detail each of the Commission’s five criteria for granting a STA, as set forth in paragraph 25 of the Order.

BayRICS submits this letter to clarify and supplement the supporting information contained in that Application. Specifically, we provide additional support for two criteria, “Substantial Deployment Prior to Enactment of the Act” and “Ability to Deliver Timely Service.” We believe the other three criteria (“Specific Public Safety Need,” “Compliance with Minimum Technical Requirements” and “State Level Coordination”) are adequately demonstrated in the BayRICS Application.

I. Substantial Deployment Prior to Enactment of the Act.

The Commission requires a showing of “Substantial deployment prior to enactment of the Act.” To meet this requirement, the Commission will look for “a pattern of sustained investment, both monetary and in terms of planning and construction, including whether applicants have significantly deployed their network prior to the Public Safety Spectrum Act’s enactment on February 22, 2012.” The Commission’s has indicated that it will give “careful consideration” to seven categories of “substantive and sustained steps” STA applicants have taken over time to accomplish their deployments: (1) *any funding obtained*; (2) *contracts entered into for network construction and deployment*; (3) *equipment purchased and delivered*; (4) *sites identified and towers placed*; (5), *engineering analyses performed*; (6) *infrastructure actually deployed in the field*; and (7) *coordination carried out at the statewide or regional level among prospective user groups.*”

BayRICS has demonstrated in its STA Application substantial deployment prior to the enactment of the Act in five of the seven categories identified by the Commission. In the other two categories, a hold was placed at NTIA request. A summary of the status of the Project for each of the seven types of steps is provided in the following table:

	Category	Percentage Complete as of Enactment of Act	Current Percentage Complete
1	Funding obtained		
	Project fully funded through BTOP Grant and Motorola Matching Funds as of Feb. 22, 2012 (26% of grant suspended in April 2012)	100%	74%

¹ *In re Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012*, PS Docket No. 12-94, FCC 12-85, (July 31, 2012) (“Early Deployment Order”)

2	Contracts entered into for network construction and deployment		
	BOOM Agreement		
	Adopted and Executed by BayRICS in January 2012	100%	100%
	Site Use Agreements		
	Nine of 13 agreements executed by Feb. 22, 2012 (12 of 13 to date)	69%	92%
	Vendor Contract		
	LTE vendor agreement was 90% complete by Feb, 13, 2012	90%	90%
3	Equipment purchased and delivered		
	Equipment Purchase was scheduled for April 2012; order placed on hold at NTIA request	0%	0%
4	Sites identified and towers placed		
	Sites Identified		
	123 of 128 Sites covered under negotiated site use agreements (pending final execution) as of February 22, 2012	96%	100%
	Towers Placed		
	100 of 128 Towers in Place as of February 22, 2012	78%	78%
5	Engineering analyses performed		
	System Engineering Design		
	System Design Completed and Included as Exhibit to BOOM Agreement In January 2012	100%	100%
	Site Analysis Visits/Lease Drawings		
	Site analyses visits conducted and site lease drawings completed for all sites in site configuration as of Feb. 22, 2012	100%	100%
	Zoning and Permitting Analyses		
	Zoning and permitting analyses conducted for all sites in site configuration as of Feb. 22, 2012	100%	100%
	Antenna Mappings		
	7 of 128 Antenna Mappings Completed as of Feb. 22, 2012 (57 of 128 to date)	5%	45%
	Structural Analyses Completed		

	Structural analyses began execution of after Site Use agreements (74 of 128 sites completed to date)	0%	58%
	Backhaul Route Plan		
	Backhaul Route Plan 75% Complete as of Feb. 22, 2012	75%	90%
6	Infrastructure actually deployed in the field		
	Equipment Purchase was scheduled for April 2012; order placed on hold at NTIA request	0%	0%
7	Coordination carried out at the statewide or regional level among prospective user groups.		
	BayRICS Authority JPA established in August 2011 to coordinate regional activities and negotiate BOOM Agreement	100%	100%
	State Coordination established in August 2011; see State of California Technology Agency letter of support for STA	100%	100%

II. Ability to Deliver Timely Service.

The Commission has indicated that another important factor is “whether funding is readily available to support network deployment and operation of the scope contemplated in application” and whether deployment “is reasonably likely to commence for the benefit of public safety users well in advance of FirstNet’s offering service.”

As indicated above, on the date of enactment of the Act, the BayRICS project was 100% funded through BTOP grant. However, in April 2012, the NTIA partially suspended \$18.4 million of the BTOP grant allocated to the purchase and installation of LTE equipment. The NTIA has indicated that grantees must establish ongoing rights to use the 700MHz public safety spectrum as a precursor to accepting additional grant award conditions required to lift the suspension. Once the grantee obtains spectrum rights and agrees to these conditions, the partial suspension will be lifted and the funding will become available.

BayRICS is concerned about the potential “catch-22” problem between the NTIA and the FCC. NTIA will not release the funds without additional evidence of spectrum rights. The FCC seeks evidence that NTIA will release the funds as a requirement for issuing the STA. We ask the Commission to accept the attached memo of July 20, 2012 from NTIA as evidence of NTIA’s intent to release the suspended funds contingent on the FCC granting the BayRICS application and grantee Motorola thereby acquiring the needed spectrum access.

Deployment of the system will begin as soon as possible after the NTIA lifts the partial suspension. We believe that the work accomplished thus far constitutes the most complex and time-consuming portions of project deployment. Remaining tasks, such as equipment ordering, system testing and remaining site work, can be completed in parallel and within a relatively short time period.

Given lag times between equipment purchase and delivery, we currently estimate that the system could become operational in the Bay Area within 15 months of the date the NTIA partial suspension is lifted. In contrast, it is unlikely that FirstNet will be positioned to deploy in the region within the next several years. Motorola has provided a projected BayRICS project timeline based on the assumption that the NTIA suspension will be lifted soon. The timeline is attached below.

III. Denying BayRICS an STA Would Result in Considerable Stranded Investment.

As we indicated in the application, as of August 10, 2012, Motorola had spent almost \$5 million BTOP grant and matching funds on the project. BayRICS and the member jurisdictions have also invested funding of \$1 million, as well as substantial in-kind resources, including office space, utilities, administrative support, and approximately 5,000 hours of staff time for governance, administration, contract negotiations, and project management. Individual BayRICS member jurisdictions have contributed an additional 5,000 staff hours for site-related work.² Much of this work would be placed at risk if the project is not allowed to proceed.

BayRICS does not bear ready comparison with the other two STA applicants to date, Harris County Texas and Adams County Colorado.³ The BayRICS project is much larger in geographic area covered, site count and complexity compared to the other projects. Likewise, the risk of stranded investment is potentially much greater for the BayRICS projects.

Despite these disparities, the FCC has promised to evaluate each STA application on a case-by-case basis. (Early Deployment Order, ¶ 24) With respect to the key public interest ingredient of an STA showing, we respectfully submit that of the three applications to date, only BayRICS is likely to provide the experience of transitional deployment in a large and security-sensitive urban area. Its application, if granted, offers the greatest opportunity to follow the instruction of Section 6206(c)(3) for utilizing existing infrastructure in building the nationwide public safety broadband system.

IV. Amendment of STA to include D Block Spectrum.

We agree with the NTIA that these initial projects should be deployed with the full spectrum allocation that will be used by the FirstNet network. We intend to operate the system on the complete 10x10 spectrum allocation that will be fully compatible with FirstNet nationwide network. Therefore we request that BayRICS be allowed to amend its STA at the appropriate time to include the authority to operate using the D Block spectrum.

V. Conclusion

The Commission has ruled that where it would clearly serve the public interest and not undermine Congress's goals or FirstNet's mandate, the Bureau should issue STAs allowing public safety entities to move ahead to use this spectrum to provide broadband services to first

² Additional Comments of BayRICS Authority, PS Docket No. 12-94, PS Docket No. 06-229 at 3 (June 27, 2012)

³ Like BayRICS/Motorola, Adams County is a BTOP grantee whose funding has been partly suspended. The Texas STA application was granted by Bureau Order 12-1432, released August 31, 2012.

responders. BayRICS meets the requirements for STA. We respectfully request the Bureau grant our request.

Sincerely,



Undersheriff Richard T. Lucia
Alameda County Sheriff
Chair, BayRICS Authority

CC: Gene Fullano
Brian Hurley
Erika Olsen
David Furth

Charles Mathias
Angela E. Giancarlo
Courtney Reinhard
Louis Peraertz
David Goldman

Nicholas Miller
James Hobson
Barry Fraser

Attachment One

Memo from NTIA to Motorola Regarding
Satisfied Special Award Conditions



UNITED STATES DEPARTMENT OF COMMERCE
National Telecommunications and
Information Administration
Washington, DC 20230

Memorandum for: Larry Jenkins, Grants Officer
National Oceanic and Atmospheric Administration (NOAA)

From: Laura M. Pettus, Public Safety Director *jmp*
Broadband Technology Opportunities Program (BTOP)
National Telecommunications and Information Administration (NTIA)

Subject: Motorola Solutions, Inc. (NT10BIX557089) – Satisfied Special Award
Condition Award Action Request (#2292370) Review & Notice

Date: July 20, 2012

On May 11, 2012 the National Oceanic and Atmospheric Administration (NOAA) issued an award amendment suspending the Motorola Solution's (Motorola) Broadband Technology Opportunities Program (BTOP) award for any and all activities related to Long Term Evolution (LTE). The amendment imposed a Special Award Condition (SAC) that required the recipient to provide an accounting of funds spent to date, provide a statement acknowledging that funding associated with the LTE portion of the project will remain on suspension until Motorola regains authority to utilize the 700 MHz public safety spectrum, and offered the recipient an opportunity to re-scope the budget to non-LTE activities.

On June 25, 2012, Motorola submitted an Award Action Request (AAR #2292370) that outlined the necessary acknowledgement and accounting requested in its SAC. Motorola's memo acknowledges that it will be able to modify some of the LTE activities within its project, which is pending a budget modification submission and review. Motorola is unable to identify non-LTE related activities for the entire project at this time and acknowledges that the LTE portion of the award will remain on suspension until it is granted long term access to the 700 MHz public safety broadband spectrum. Accordingly, Motorola has satisfied the requirements imposed in its SAC.

NTIA will notify the Grants Office if the conditions giving rise to the partial suspension of Motorola's award change and Motorola is granted long term access to the 700 MHz public safety broadband spectrum. Until such time, NTIA requests that the Grants Office continue to hold Motorola's Automated Standard Application for Payments (ASAP) account on suspension status and prevent it from withdrawing funds for the BTOP project in the amount of \$18,446,087.

Attachment Two

Motorola BayWEB Project Schedule

