



# Report in Brief

May 30, 2024

## Background

The First Responder Network Authority (FirstNet Authority) was established to ensure the building, deployment, and operation of the Nationwide Public Safety Broadband Network (NPSBN) dedicated to first responders. On March 28, 2017, FirstNet Authority entered into a contract with AT&T for the construction and operation of the NPSBN. The contract and a later task order originally included coverage/capacity and device connection target requirements that AT&T had to meet with six different milestones through the buildout of the network. All milestones have payments associated with them. We identified multiple significant modifications to both the contract and task order regarding coverage and device connection targets that changed the original requirements.

The NPSBN contract is a high-profile, mission-critical program. Because the modifications were no-cost and FirstNet Authority lacked adequate policies and procedures, it did not always hold acquisition review boards, which allow for an additional layer of review by the U.S. Department of Commerce's (the Department's) Senior Procurement Executive.

## Why We Did This Review

We announced two concurrent audits to determine whether FirstNet Authority is ensuring that AT&T is achieving the desired results for (1) device connection targets for each state and territory and (2) network coverage for each state and territory. We separated these objectives into three components that include (1) the evolution of the desired results for device connection targets and network coverage as executed through contract modifications, (2) oversight of device connection targets, and (3) oversight of network coverage. This report focuses on the first component: FirstNet Authority's modifications to the contract, to include the rationale behind those changes and whether FirstNet Authority had an effective process for documenting decisions it made concerning those modifications.

## FIRST RESPONDER NETWORK AUTHORITY

### FirstNet Authority Did Not Ensure the Nation's First Responders' Needs Were Continuing to Be Met Timely When Modifying Key Objectives of the NPSBN Contract

OIG-24-024-A

## WHAT WE FOUND

We found that FirstNet Authority did not consistently adhere to federal and Departmental regulations or demonstrate it received adequate value in return when it changed NPSBN contract requirements. FirstNet Authority

- accepted AT&T's proposed nationwide coverage metrics and changed connection target requirements, which made it easier for AT&T to achieve milestone compliance and payments;
- delayed and reduced coverage and connection target requirements due to AT&T's nonperformance; and
- modified the payment method in order to pay AT&T early for coverage completion, despite AT&T's history of coverage problems.

## WHAT WE RECOMMENDED

We recommended that the Department's Senior Procurement Executive and Director of Acquisition Management

1. Conduct an acquisition management review to assess the FirstNet Authority acquisition functions and determine if adequate contract files exist to properly support decisions.
2. Review the actions taken to execute the contract and task order modifications identified in this report and determine whether, under law, Federal Acquisition Regulation (FAR) and/or Department policy, actions should be taken to review, revoke, or revise the warrants used to execute the modifications.
3. Determine whether, in order to comply with applicable federal and Department regulations, FirstNet Authority should be required to submit all future contract awards and modifications to the Department for review prior to award.

We recommended that the Assistant Secretary of Commerce for Communications and Information and NTIA Administrator direct FirstNet Authority's Chief Executive Officer to

4. Ensure the required justification and pricing analysis are conducted and documented for all contract modifications to ensure compliance with FAR section 43.1.
5. Ensure compliance with FAR section 32.104 by determining if (1) AT&T will not be able to bill for the first delivery of products for a substantial time after work must begin (normally 6 months) and (2) the expenses for contract performance during the predelivery period will have a significant impact on AT&T's working capital when using contract financing.
6. Ensure compliance with *Commerce Acquisition Manual* 1301.71 and obtain legal reviews from the Department's Contract Law Division for all contract modifications when the services are materially changing.
7. Leverage the remediation options in the contract to hold AT&T accountable and take the necessary actions to address deficiencies when AT&T is either not on track to meet or not meeting contract terms.
8. Revise FirstNet Authority's *Acquisition Review Board Review Process and Procedures* to define what is considered a "significant modification" and to ensure results of ARB meetings are documented in compliance with FAR section 4.803.
9. Ensure the Chief Procurement Officer provides oversight to verify that contract modifications are sufficiently supported, justified, in compliance with the FAR, and in the best interests of the government and first responders.