

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementing a Nationwide, Broadband,)	PS Docket No. 06-229
Interoperable Public Safety Network in the 700)	
MHz Band)	

ORDER

Adopted: August 11, 2010

Released: August 11, 2010

By the Chief, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. By this *Order*, the Public Safety and Homeland Security Bureau (Bureau) approves the budget submitted by the Public Safety Spectrum Trust (PSST) pursuant to the Commission's *Waiver Order* issued on May 12, 2010, which granted conditional waivers to 21 public safety jurisdictions to pursue early deployment of interoperable statewide, regional or local 700 MHz public safety broadband networks.¹

II. BACKGROUND

2. On May 12, 2010, the Commission granted, with conditions, twenty-one waiver Petitions filed by public safety entities (Petitioners) seeking early deployment of statewide or local public safety broadband networks in the 700 MHz public safety broadband spectrum (763-768 MHz and 793-798 MHz).² The Commission found that the Petitioners generally met the standard for waiver of the Commission's rules and that the public interest warranted allowing early deployment, so long as the conditions imposed by that order were met. Among other conditions, the Commission required that each Petitioner obtain a long term *de facto* spectrum lease from the PSST.³

3. The Commission further found, however, that in light of the unique circumstances created by the fact that the PSST is the exclusive nationwide licensee for the spectrum in question, certain additional safeguards were appropriate, including providing a Standard Lease for use by the PSST and Petitioners, and the submission of a budget by the PSST for any proposed administrative fees to be paid under the leases, for approval by the Bureau. Such a budget was required to include how such a fee would be "structured, collected, and expended," with an expectation that such fees will be "reasonable and limited."⁴ Once approved, and as a condition of receipt of such fees, the Commission required the

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, 25 FCC Rcd 5145 (2010) (*Waiver Order*).

² *Id.* at Appendix A.

³ *Id.* at 5152-55, ¶¶ 20-33.

⁴ *Id.* at ¶ 33.

PSST “to submit monthly reports to the Bureau, providing a simple accounting of fees collected and how such fees are expended, based on generally accepted accounting principles.”

4. On June 11, 2010, pursuant to the Commission’s *Waiver Order*, the PSST submitted a proposed budget for “Lease Administrative Fees,” which the PSST stated constituted the “best estimate, based on current information, for detailing the expenses that the PSST anticipates it will incur in carrying out the responsibilities set forth in the [*Waiver Order*].”⁵ In total, the PSST proposes the assessment and collection of \$315,000 for the first year of the leases, including expenses allocated for: lease preparation and finalization; compliance; budget, accounting and reporting; and miscellaneous expenses including office expenses and travel.⁶ Assuming the execution of 21 leases, the PSST’s proposed first year administrative fee is \$15,000 per lessee. Assuming no unforeseen circumstances, the PSST proposes a second year fee of \$5,000 per lessee. The Bureau sought comment on the PSST’s submission, and specifically sought comment from the waiver recipients.⁷ We received three comments in response.

III. DISCUSSION

5. Two waiver recipients filed comments on the PSST’s proposed budget: the Bay Area Urban Area Security Initiative Region (Bay Area) and the City of Charlotte, NC (Charlotte). The Bay Area asserts that the PSST’s budgetary estimates are too low with respect to estimates for “Administrative Maintenance.”⁸ In particular, the Bay Area expresses concern that the limited number of hours estimated for the PSST to consult with Stakeholders with respect to their deployments “will hinder the communications efforts necessary for the projects to be a success.”⁹ In this respect, the Bay Area suggests an increase of \$35,250 (for a total of \$115,000) in the budgetary expenses allowed for this category of activities. The Bay Area also suggests some increase in budgetary expenses allowed for the PSST’s compliance efforts, as well as for miscellaneous PSST staff expenses.¹⁰ In total, the Bay Area’s recommendations would result in a first year administrative fee of \$19,000 per lessee and a second year fee of \$14,000 per lessee.

6. Conversely, Charlotte cautions that the Commission should be circumspect with respect to the PSST’s proposed budget, noting that public monies must be spent to pay these fees.¹¹ Charlotte notes that a “core element of public budgets and expenditures is a transparent process where the effort required, its cost and the objective to be obtained is presented in detail.”¹² In this respect, Charlotte

⁵ Letter from Harlin R. McEwen, Chairman, Public Safety Spectrum Trust, to James Arden Barnett, Jr., Chief, Public Safety and Homeland Security Bureau, PS Docket No. 06-229 (June 11, 2010) (*PSST Proposed Budget*).

⁶ *PSST Proposed Budget* at 1-2.

⁷ Public Safety and Homeland Security Bureau Seeks Comment on the Public Safety Spectrum Trust’s Proposed Budget and Administrative Fees for the 700 MHz Public Safety Broadband Waiver Recipients, DA 10-1091 (rel. June 18, 2010).

⁸ Bay Area Comments, PS Docket No. 06-229, at 1 (filed July 7, 2010).

⁹ *Id.*

¹⁰ *Id.* at 2.

¹¹ Charlotte Comments, PS Docket No. 06-229, at 3 (filed July 9, 2010).

¹² *Id.*

suggests more precise information is needed with respect to costs associated with lease execution, versus the PSST's role in commenting on the technical criteria the waiver recipients will employ, and questions the predominance of legal expenses in most categories within the budget, as well as the percentage of expenses associated with accounting and reporting.¹³

7. Motorola also filed comments, and while it does not take a position relative to the specific budget put forth by the PSST, it makes a general statement of support for the recovery of the PSST's "costs through the assessment of such fees that are based on a reasonably prepared budget."¹⁴

8. We find that the PSST has complied with the requirements of the *Waiver Order*, and provided sufficient detail and a reasonable proposal for the administrative fees associated with the initial two year term provided for in the standard lease. Accordingly, we approve the proposed budget, reproduced as Appendix A. As noted in the *Waiver Order*, the PSST will have legitimate expenses associated with the preparation and execution of the required leases, the maintenance of *de jure* control over its license, and necessary input with the Emergency Response Interoperability Center (ERIC) as ERIC develops the technical criteria for the waiver recipients' networks.¹⁵ While we recognize the concerns expressed both by the Bay Area and Charlotte, we also find that the additional safeguards required by the *Waiver Order*, including monthly reporting using generally accepted accounting principles and periodic audits, will provide sufficient information and opportunity for Commission oversight to assess any concerns as the PSST's work and the waiver deployments progress. Moreover, we may also review future PSST budgets, as appropriate.

V. ORDERING CLAUSES

9. ACCORDINGLY, IT IS ORDERED, pursuant to sections 1, 4(i), 301, 303, 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 301, 303, 332, and 337, that the PSST Proposed Budget is APPROVED.

10. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's Rules, 47 C.F.R. §§ 0.191, 0.392, and the *Waiver Order*, 25 FCC Rcd 5145, 5155, ¶ 33 (2010).

FEDERAL COMMUNICATIONS COMMISSION

James Arden Barnett, Jr., Rear Admiral (Ret.)
Chief, Public Safety and Homeland Security Bureau

¹³ *Id.* at 3-4.

¹⁴ Motorola Comments, PS Docket No. 06-229, at 2 (filed July 9, 2010).

¹⁵ *Waiver Order* at 5154-55, ¶¶ 30-33.

APPENDIX A

PSST WAIVER RECIPIENT LEASES – ADMINISTRATIVE FEE – FIRST YEAR BUDGET

Item	Estimated PSST Staff Hours (\$150 hour)	Estimated Attorney or Technical Hours (\$500 hour)	Estimated Bookkeeping Accounting Hours (\$100 hour)	
LEASE PREPARATION & FINALIZATION				
Review of the Order and administrative preparations related to the leases (e.g., internal review, responding to questions from Petitioners and FCC staff before and after the leases are signed, other correspondence with Petitioners and FCC staff before and after the leases are signed, appropriate outside counsel assistance and legal analysis)	60	120 (100 attorney hrs) (20 technical hrs)		
Executing the Standard Leases and submitting them to the FCC (including correspondence with Petitioners, lease execution, lease submissions, and appropriate outside counsel assistance)	42 (2 hrs per lease)	42 (2 attorney hrs per lease)		
Monitoring the lease applications and approvals (including setting up and updating a tracking chart for easy reference)	10	12		
Total Lease Preparation and Finalization Hours	112	174		
Total Lease Preparation and Finalization Expenses	\$ 16,800	\$ 87,000	0	\$ 103,800

COMPLIANCE EFFORTS (Consistent with the PSST's <i>De Jure</i> Control of the License)				
Administrative and legal efforts related to the PSST's FCC-required role in the leasing context (e.g., providing input into the interoperability framework being developed by ERIC, providing input into other FCC proceedings that directly affect the leases), including submitting comments and other correspondence with ERIC and the FCC, correspondence with Petitioners, and appropriate outside counsel assistance	60	44		
Technical efforts related to the PSST's FCC-required role in the leasing context (e.g., providing input into the interoperability framework being developed by ERIC, providing input into other FCC proceedings that directly affect the leases), including submitting comments and other correspondence with ERIC and the FCC, correspondence with Petitioners, and appropriate outside counsel assistance	24	48		
Other correspondence with Petitioners regarding lease compliance	42	21		
Total Compliance Hours	126	113		
Total Compliance Expenses	\$ 18,900	\$ 56,500	0	\$ 75,400

PSST WAIVER RECIPIENT LEASES – ADMINISTRATIVE FEE – FIRST YEAR BUDGET (Continued)

Item	Estimated PSST Staff Hours (\$150 hour)	Estimated Attorney or Technical Hours (\$500 hour)	Estimated Bookkeeping Accounting Hours (\$100 hour)
BUDGET, ACCOUNTING, & REPORTING			
Budget creation and addressing issues raised in related public notice proceeding, with appropriate outside counsel assistance	20	30	
Monthly PSST reporting, with appropriate outside counsel assistance	60	30	
Bookkeeping & Accounting	10		150
Consultation with Petitioners regarding quarterly reporting, with appropriate outside counsel assistance	80	8	
PSST audit compliance, with appropriate outside counsel assistance	15	6	
Total Budget, Accounting, and Reporting Hours	185	74	150
Total Budget, Accounting, and Reporting Expenses	\$ 27,750	\$ 37,000	\$ 15,000

MISCELLANEOUS EXPENSES	
Telephone bridge for conference calls, PSST Staff travel, website, etc.	
Total Miscellaneous Expenses	\$ 56,050

BUDGET SUMMARY – FIRST YEAR

Lease Preparation and Finalization	\$ 103,800
Compliance	\$ 75,400
Budget, Accounting, & Reporting	\$ 79,750
Miscellaneous	\$ 56,050
GRAND TOTAL – PSST FIRST YEAR EXPENSES	\$ 315,000
FIRST YEAR ADMINISTRATIVE FEE PER LESSEE	\$ 15,000

The first year administrative fee will be due within 60 days after FCC approval of a lease.

BUDGET PROPOSAL – SECOND YEAR OF LEASE

To be submitted by the PSST and approved by the FCC two months prior to the end of the first year.

Assuming no unforeseen circumstances, the PSST estimates that the second year Administrative Fee would be approximately \$5,000 per lessee.