




January 5, 2021

MEMORANDUM FOR: Edward Parkinson
Executive Director
First Responder Network Authority

FROM: 
Frederick J. Meny, Jr.
Assistant Inspector General for Audit and Evaluation

SUBJECT: *Continued FirstNet Authority Management Attention is Needed to Address Control Environment Weaknesses*
Final Report No. OIG-21-016-I

This final report provides the results of our evaluation of the First Responder Network Authority's (FirstNet Authority's) actions following our management alert, *FirstNet Management Altered Contract Requirements Without Authorization*,¹ which was a result of a hotline complaint. Specifically, our evaluation objective was to assess whether FirstNet Authority management took steps to address the concerns noted in our August 2019 management alert and whether continued concerns still existed.

To assess whether the hotline complaint allegations were valid, we interviewed FirstNet Authority staff, reviewed supporting documentation, and considered other related hotline complaints and resolutions.

We observed that FirstNet Authority management took several actions consistent with the corrective steps proposed in the management alert. However, FirstNet Authority's actions have not fully mitigated issues included in the management alert. Continued management attention is warranted to strengthen the underlying control environment, which continues to allow inappropriate management actions.

This report includes a recommendation to strengthen FirstNet Authority's control environment. See appendix A for specific details on our objective, scope, and methodology.

¹ U.S. Department of Commerce Office of Inspector General, August 1, 2019. *Management Alert: FirstNet Management Altered Contract Requirements Without Authorization*, OIG-19-020-M. Washington, DC: DOC OIG. Available online at <https://www.oig.doc.gov/OIGPublications/OIG-19-020-M.pdf> (accessed September 14, 2020).

Background

In our August 2019 management alert, we reported the following:

Only the contracting officer (CO) has the authority to bind the government to agreements or make changes to existing agreements or contracts. However, it came to our attention that unauthorized [FirstNet Authority] managers added requirements to, and increased the cost of, the Nationwide Public Safety Broadband Network (NPSBN) contract without consulting the CO and the contracting officer's representative (COR). The additional requirements were not part of the original scope of work, and modifications were required to authorize informal agreements or work already in progress. The additional requirements were not authorized or funded before the contractor was directed to perform the work.²

Also in this management alert, we advised that “FirstNet must take additional steps to address the control environment that permitted these systemic problems”³

On January 7, 2020, we received an anonymous hotline complaint, which stated in part that FirstNet Authority failed to address concerns included in the August 1, 2019, management alert.

Finding and Recommendation

We found that FirstNet Authority took some actions to address the concerns included in our August 2019 management alert; however, we found that issues with FirstNet Authority's underlying control environment continue to exist.

Issues with FirstNet Authority's Underlying Control Environment Continue to Exist

We observed that FirstNet Authority had taken some actions consistent with the corrective steps that we proposed in our management alert, such as

- communicating procurement roles and responsibilities;
- developing adequate training that covered subjects noted in the management alert;
- requiring FirstNet Authority staff and Board of Directors members to complete comprehensive procurement training; and
- following up with FirstNet Authority staff who did not complete the training.

Nevertheless, related problems persist that warrant continued management attention.

FirstNet Authority staff requested additional contract services outside the scope of the contract. For example, FirstNet Authority requested a tour of the Global Network Operations Center (GNOC) for new management and Board of Directors members; however, the

² *Ibid*, Key Issue.

³ *Ibid*, 2.

tour was not part of the contract terms. Although the request specifically noted that the tour was not part of the contract, FirstNet Authority stated that the contractor could “undertake [it] if it seems like it would help build executive/board relationships,” which could be viewed as exerting indirect pressure for the contractor to perform unreimbursed services outside the contract. Although the contractor did not complete the tour due to schedule conflicts and health related facility access restrictions, it remains an outstanding item.

FirstNet Authority staff tried to address contractor performance outside of established processes. Non-procurement FirstNet Authority staff contacted the contractor about potential performance issues regarding recovery time after a natural disaster. The NPSBN contractor reached out to FirstNet Authority procurement staff to voice its concern about the out-of-process contact, and as the contract oversight body, the procurement staff addressed the issue with the staff member involved. Although the situation was resolved without additional cost to the government, the actions were in direct contradiction with contract terms and demonstrate continued issues with the control environment.

Both instances followed a communication of procurement roles and responsibilities issued on September 11, 2019, which outlined acquisition roles and stated that the contracting officer is the only person authorized to administer or change the conditions of the contract (see regulations and contract terms below). Although FirstNet Authority’s management communicated acquisition roles to its staff and began to take steps to increase awareness of ongoing issues after our interviews, it did not implement a policy to define consequences for going outside of regulations and contract terms.

The U.S. Government Accountability Office (GAO) *Standards for Internal Control in the Federal Government* states, “Management, with oversight from the oversight body, takes corrective action as necessary to enforce accountability for internal control in the entity.”⁴ The Federal Acquisition Regulation states the contracting officer has the “authority to enter into, administer, or terminate contracts and make related determinations and findings.”⁵ Finally, the NPSBN contract specifies that only the contracting officer is authorized to modify or change conditions or requirements of the contract.

Although FirstNet Authority took corrective steps following our August 2019 management alert, continued control issues indicate further action is needed. Without further action, the risk increases that FirstNet Authority will continue to be non-compliant with the Federal Acquisition Regulation and management will set an inappropriate example throughout the organization, which could lead to other control breaches.

⁴ U.S. Government Accountability Office, September 2014. *Standards for Internal Control in the Federal Government*, GAO-14-704G. Washington, DC: GAO, principle 5.06.

⁵ FAR § 1.602-1.

Recommendation

We recommend that FirstNet Authority's Executive Director develop and implement a policy, which specifies how management and staff will be held accountable for non-compliance with established regulations, policies, and controls.

Summary of Agency Response and OIG Comments

On November 30, 2020, we received FirstNet Authority's response to the draft report's finding and recommendation, which we include within this final report as appendix B. In its response to our draft report, FirstNet Authority concurs with our recommendation; however, it disagreed with our finding.

FirstNet Authority disagreed that the request for a GNOC tour "constituted a request for 'additional contract services outside the scope of the contract.'" In its response, FirstNet Authority stated, "GNOC tours are not governed or limited by the [NPSBN] contract as these kinds of tours are commonplace for AT&T to provide to outside parties." However, we found that the contractor only offers a multi-media presentation regarding the GNOC at its Corporate Briefing Center. FirstNet Authority requested a visit and tour of the GNOC, which is neither included in the contract nor offered widely to the public. We reaffirm that the tour was not in the contract and could be viewed as exerting indirect pressure for the contractor to perform unreimbursed services outside the contract.

FirstNet Authority also stated that its processes succeeded in flagging the non-procurement staff's contact with the contractor regarding potential performance issues. However, we note that (1) the contact with the contractor occurred shortly after FirstNet Authority management distributed the roles and responsibilities regarding the NPSBN contract, which specifically stated who was responsible for addressing potential contract performance issues, and (2) the contractor brought the issue to FirstNet Authority's attention—FirstNet Authority's controls did not independently identify or prevent the issue.

Pursuant to Department Administrative Order 213-5, please submit to us an action plan that addresses the recommendation in this report within 60 calendar days. This final report will be posted on OIG's website pursuant to sections 4 and 8M of the Inspector General Act of 1978, as amended (5 U.S.C. App., §§ 4 & 8M).

We appreciate the cooperation and courtesies extended to us by your staff during this evaluation. If you have any questions or concerns about this report, please contact me at (202) 482-1931 or Chris Rose, Director for Telecommunications, at (202) 482-5558.

cc: Lisa Casias, Deputy Chief Executive Officer, FirstNet Authority
Erin Greten, Chief Counsel, FirstNet Authority
Kim Farington, Chief Financial Officer, FirstNet Authority
John Wobbleton, Senior Director, Policy and Internal Control, FirstNet Authority
Alice Suh, Senior Analyst, FirstNet Authority
Kathlene Tran, Internal Control Team Lead, FirstNet Authority
MaryAnn Mausser, Audit Liaison, Office of the Secretary

Appendix A. Objective, Scope, and Methodology

The objective of our evaluation was to assess whether FirstNet Authority management took steps to address the concerns noted in our August 2019 management alert and whether continued concerns still existed. To accomplish our objective, we coordinated our efforts with an ongoing audit.

Specific to this evaluation, we did the following:

- Reviewed the following guidance and regulations:
 - GAO's *Standards for Internal Control in the Federal Government*⁶ to assess management controls.
 - Federal Acquisition Regulation to determine roles and responsibilities for the contract management process.
- Interviewed FirstNet Authority personnel responsible for administering and monitoring the NPSBN contract.
- Reviewed supporting documentation to assess FirstNet Authority actions and determine if control issues continue.

We obtained an understanding of the internal controls significant within the context of the evaluation objective by interviewing FirstNet Authority officials, reviewing relevant policies and procedures, and reviewing documentation. We reported the internal control weaknesses in the “Finding and Recommendation” sections of this report.

In satisfying our evaluation objective, we did not rely on computer-processed data. Instead, we reviewed documentation submitted by FirstNet; therefore, we did not test the reliability of FirstNet's information technology systems.

We conducted our review from January through August 2020 under the authority of the Inspector General Act of 1978, as amended (5 U.S.C. App.), and Department Organization Order 10-13, dated April 26, 2013. We performed our work at FirstNet Authority headquarters in Reston, Virginia; Department headquarters in Washington, DC; and the OIG regional office in Denver, Colorado.

The review was conducted in accordance with the *Quality Standards for Inspection and Evaluation* (January 2012) issued by the Council of the Inspectors General on Integrity and Efficiency.⁷

⁶ GAO-14-704G.

⁷ Council of the Inspectors General on Integrity and Efficiency, January 2012. *Quality Standards for Inspection and Evaluation*. Washington, DC: CIGIE.

Appendix B. Agency Response



MEMORANDUM FOR: Frederick J. Meny, Jr.
Assistant Inspector General for Audit and Evaluation
Office of the Inspector General

FROM: Edward Parkinson EDWARD
Executive Director PARKINSON
First Responder Network Authority

SUBJECT: Draft Report: Continued FirstNet Authority Management
Attention Is Needed to Address Control Environment Weaknesses

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EDWARD PARKINSON
Date: 2020.11.23
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Thank you for the opportunity to review and provide comments on the subject draft report. The First Responder Network Authority (FirstNet Authority) is committed to ensuring the issues in the draft report are fully resolved, and concurs with the recommendation.

We appreciate that the Office of Inspector General recognized the FirstNet Authority did take immediate and unequivocal steps to address matters raised in the management alert, and we will continue to examine new methods to both prevent and detect procurement non-compliance.

While we concur with the recommendation contained in the draft report, we would like to clarify two items. First, the draft report highlights an instance in which a FirstNet Authority employee requested a tour of AT&T's Global Network Operations Center (GNOC) and contends that doing so constituted a request for "additional contract services outside the scope of the contract." We disagree. GNOC tours are not governed or limited by the Nationwide Public Safety Broadband Network contract as these kinds of tours are commonplace for AT&T to provide to outside parties.

Second, the draft report also highlights an instance in which a non-procurement FirstNet Authority staff member contacted a contractor about potential performance issues regarding recovery time after a natural disaster. We are committed to working towards sustained procurement compliance and have counseled the employee in question. We, however, wish to highlight the process success here. This issue was flagged by both the contractor and the FirstNet Authority. And as noted in the draft report "the situation was resolved without additional cost to the government." The ability to address this issue before it resulted in obligations for the government is due to the fact that the FirstNet Authority has implemented appropriate controls to identify issues when they arise.

Again, the FirstNet Authority appreciates the opportunity to review and provide comments to the draft report. If you have any questions or need additional information, please contact Alice Suh, at 202-430-2988 or alice.suh@firstnet.gov.