

## NTIA and NHTSA Notice of Proposed Rulemaking on the 911 Grant Program

### Comments of APCO International

Docket No. 170420407-7407-01

The Association of Public-Safety Communications Officials-International, Inc. (APCO) submits the following comments in response to the above-captioned Notice of Proposed Rulemaking<sup>1</sup> (NPRM) issued by the National Telecommunications and Information Administration (NTIA) and the National Highway Traffic Safety Administration (NHTSA). NTIA and NHTSA (the “Office”) seek comment on proposed revisions to the implementing regulations for the 911 Grant Program as a result of the enactment of the Next Generation 911 Advancement Act of 2012.

Founded in 1935, APCO is the nation’s oldest and largest organization of public safety communications professionals. APCO is a non-profit association with over 30,000 members, primarily consisting of state and local government employees who manage and operate public safety communications systems - including 911 Public Safety Answering Points (PSAPs), emergency operations centers, radio networks, and information technology - for law enforcement, fire, emergency medical, and other public safety agencies.

The first 911 call was placed nearly fifty years ago, and while the commercial communications market has enjoyed tremendous enhancements, many 911 systems still depend on essentially the same technology that was used for that first call. Modernizing the nation’s 911 systems is a public safety priority, and the 911 Grant Program is an opportunity for significant progress. To achieve maximum effect and efficient use of limited federal funding, the Office should implement the grant program to create models for interoperable Next Generation 911 (NG911) systems. APCO also addresses eligible applicants and uses, and administrative issues.

#### I. Grant Funds Should be Targeted to Create Models for Interoperable NG911 Systems

The Office seeks comment on an approach that envisions apportioning the available grant funds across all of the states and tribal organizations, to serve 911, Enhanced 911 (E911), and NG911 purposes. However, given the total amount available for the grant program, this approach would allow for only marginal enhancements in any given area. Further, while the grant program may be used for 911, E911, and NG911 purposes, NG911 should be the priority regardless of the status of 911 services available. Where pioneering states and localities have made progress toward modernizing their 911 networks, mainly by introducing IP-based connectivity, none have a fully-deployed NG911 system that provides advanced communications with interoperability across multiple jurisdictions and vendor equipment and services. Accordingly, the best way to use these grants is to create model deployments that demonstrate proofs of concept for fully-deployed and interoperable NG911 services in urban, suburban, and rural areas. By focusing on model NG911 deployments for a few areas, the grant program can better serve the entire country by producing blueprints for efficiently modernizing 911 systems nationwide. This should lower costs and speed implementations for systems that follow.

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<sup>1</sup> 911 Grant Program, 82 Fed. Reg. 44131-43 (proposed Sep. 21, 2017) (to be codified at 47 C.F.R pt. 400) (“NPRM”).

Policymakers at all levels, industry partners, and other stakeholders can all work in the same direction only if they share the same understanding of what is needed to accomplish NG911. This starts with a common vision. As the NPRM notes, some states are making progress toward NG911 by connecting PSAPs to Emergency Services IP Networks.<sup>2</sup> To be fully deployed, however, NG911 has to go beyond IP connectivity and include the equipment and services needed to enable PSAPs to process and share new forms of data. The Office should ensure that stakeholders understand that the definition of “Next Generation 911 services” proposed in the NPRM accounts for the operational goal whereby information sent to PSAPs can be received, processed, and acted upon. To illustrate, this means a member of the public can send a multimedia message (e.g., photo or video) to a PSAP that in turn is capable of receiving, analyzing, and sharing this data with a field responder or another PSAP to render an emergency response.

PSAPs should also be able to dynamically share resources and reroute calls, which is particularly valuable during high call volume periods and major disasters affecting PSAP operations. These capabilities depend on full interoperability, meaning PSAPs can seamlessly (1) receive calls and related data from origination networks, (2) share calls and related data among connecting ESInets, including across state boundaries, and (3) hand off calls and related data with each other, regardless of call handling or computer aided dispatch solutions and without the need for costly after-the-fact integrations or specialized interfaces. Without an explicit requirement that NG911 systems be interoperable, deployments will be inconsistent and limited, and NG911 will be on course to repeat the challenges that have historically plagued PSAPs.

Accordingly, interoperability should be the top priority for the grant program. The NPRM’s proposal to require grant recipients to comply with current NG911 standards as listed in the Department of Homeland Security’s SAFECOM Guidance is not the best approach.<sup>3</sup> The standards listed in the SAFECOM Guidance are very broad, in some cases incomplete, and unlikely to ensure interoperability, at least without costly after-the-fact integrations. Conversely, using widely deployed commercial standards will facilitate interoperability and help to expand the market so that public safety benefits from the competition and ongoing innovation in the commercial market. Thus, the Office should encourage grant applications be based upon use of widely deployed commercial standards that achieve the interoperability, innovation, and cost efficiencies that would be of most benefit to PSAPs.

One strategy the Office could use for ensuring the grant program produces proofs of concept for interoperable NG911 deployments could be soliciting proposals demonstrating interoperability among adjacent jurisdictions using different vendors and system designs. The receipt of grant funds should be conditioned on achieving and maintaining interoperability, and, if a grant recipient fails to do so, funds should be returned. The 911 Office should require grant recipients to establish mechanisms to ensure ongoing interoperability or plan to conduct its own interoperability review. Thus, the Office should amend section 400.4(a)(i)(B) of the grant regulations to require that applicants commit to ensuring any solutions they procure will meet clear interoperability requirements:<sup>4</sup>

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<sup>2</sup> *Id.* at 44133.

<sup>3</sup> *Id.* at 44135-36.

<sup>4</sup> Cybersecurity is a key concern for NG911. While this concept is not addressed in the NPRM, APCO recommends that grant applicants at least account for how they intend to implement cybersecurity into their planned deployments.

400.4(a)(i)(B) The implementation of IP-enabled emergency services and applications enabled by Next Generation 911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed ~~to interconnect~~ for interoperable and secure communications among the multitude of emergency response organizations.

APCO recommends that Section 400.2 of the regulations include a new defined term, “Interoperable,” as follows:

*Interoperable* means PSAPs can seamlessly (1) receive emergency calls and related data from origination networks, (2) share emergency calls and related data among ESInets, including across state boundaries, and (3) hand off emergency calls and related data with each other.

## II. Eligible Applicants and Use of Funds

### a. Fee Diversion

APCO agrees with the proposal that, consistent with the NG911 Advancement Act, states or other taxing jurisdictions that have diverted fees collected for 911 services during the 180 days immediately preceding the initial application would be ineligible and that a state or jurisdiction that diverts fees during the term of the grant must repay all grant funds awarded.<sup>5</sup> The prospect of grant funds is an important tool for preventing 911 fee diversion. However, as the Federal Communications Commission’s annual reports on fee diversion have demonstrated, there may be disagreement about what qualifies as fee diversion. For example, in the most recent fee diversion report, the FCC’s Public Safety and Homeland Security Bureau and four reporting states disagreed about whether 911 fee diversion had taken place due to different interpretations of state laws and what it means to be 911-related.<sup>6</sup> The 911 Office should create a clear definition of fee diversion for the purposes of the grant program and communicate its expectations to potential applicants.

### b. Solution Flexibility

The NPRM proposes to allow grant recipients to purchase the hardware and software for NG911 and use their own staff, contract with vendors that provide NG911 as a service, or pursue a combination of these options.<sup>7</sup> APCO commends the 911 Office for its foresight in articulating this flexibility. Additionally, technology is increasingly creating opportunities for new approaches to designing NG911 networks, functions, applications, and services. Accordingly, Applicants should also be encouraged to propose forward-thinking solutions for NG911, even if the proposals deviate from traditional approaches to NG911 network architectures.

### c. Training

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<sup>5</sup> *Id.* at 44133.

<sup>6</sup> Eighth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges, Federal Communications Commission, at paras. 38-41 (Dec. 30, 2016).

<sup>7</sup> NPRM at 44135.

The NPRM seeks comment on what, if any, limitations should be imposed on the use of grant funds for training.<sup>8</sup> As noted above, the Office should encourage and prioritize proposals that relate to the introduction of NG911 technologies. Thus funds for training should be related to operationalizing NG911 capabilities. For example, training could be directed towards helping 911 professionals triage significant volumes of data, employ increased situational awareness, manage cybersecurity, and deal with increased stress.<sup>9</sup> The use of grant funds for training should not be limited to training designed to meet the “Recommended Minimum Training Guidelines for Telecommunicators.” State and local authorities should continue to have control over minimum training requirements for their 911 professionals.

d. Use of Funds to Perform an Assessment of an Applicants’ Current 911 System

The NPRM proposes to allow grant recipients to use a portion of the permissible maximum for administrative costs to perform an assessment of their current 911 systems, and specifically cites to the FCC’s Task Force for Optimal PSAP Architecture “NG9-1-1 Readiness Scorecard.”<sup>10</sup> APCO agrees that conducting an assessment of the current 911 system could be especially valuable prior to filing a grant application. However, the Office should avoid limiting applicants’ self-assessments to any particular tool, whether directly or by implication.

III. Administrative Issues

a. Waiver Authority

The NPRM proposes to permit applicants or grant recipients to request waiver of any of the discretionary provisions of the grant program regulations, or for the 911 Office to waive on its own initiative.<sup>11</sup> Some circumstances may justify a waiver of the regulations, but if a waiver is being considered, the 911 Office should allow notice and public comment so the 911 community has an opportunity to be heard on the issue.

b. Grant Match

The NPRM contemplates permitting in-kind contributions to count toward the requirement to provide non-federal matching funds.<sup>12</sup> The 911 Office should allow applicants that have already expended non-federal funds toward NG911 deployments to count such expenses as in-kind contributions to the extent the deployments are consistent with the grant program’s objectives – primarily, interoperable proofs of concept. Doing so will allow those applicants that have already made progress transitioning to NG911 to benefit from the grant program without effectively penalizing them for being early-movers.

c. Simplifying References to the 911 Office

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<sup>8</sup> *Id.* at 44136.

<sup>9</sup> For a more detailed discussion of the potential training issues associated with NG911, see APCO’s report on Broadband Implications for the PSAP, available at [www.apcop43.org](http://www.apcop43.org).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 44136.

<sup>12</sup> *Id.* at 44139.

The NPRM includes references to NTIA, NHTSA, NTIA and NHTSA, the Agencies, and the National 911 program office without clarifying whether the names of the entities are interchangeable or have implications for roles and responsibilities depending on the context. For simplicity and to avoid confusion, APCO recommends consistent use of “the National 911 program office” for the purposes of administering the grant program.

#### IV. Conclusion

As the 50<sup>th</sup> anniversary of the first 911 call approaches, 911 systems are becoming increasingly isolated from the communications technology being used by members of the public and first responders. This grant program is a critical opportunity to demonstrate innovative, interoperable approaches to modernizing 911 and enabling PSAPs to keep pace with advances in technology. APCO appreciates the 911 Office’s work to implement this program and hopes it will serve as a model for a much larger funding opportunity in the near future.

Respectfully Submitted,

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