

2008 State Damage Prevention Program Grants Progress Report
Funding Opportunity Number: DTPH56-08-SN-0001
CFDA Number: 20.720

Award Number: DTPH56-08-G-PHPS10

Project Title: State Damage Prevention Program

Date Submitted: September 30, 2008

Submitted by: Leo M. Haynos, Kansas Corporation Commission

Specific Objective(s) of the Agreement

Under this grant award Kansas Corporation Commission will establish a pilot enforcement program in the two largest metropolitan areas within Kansas (Wichita, and Topeka).

Workscope

Under the terms of this agreement, the Grantee will address the following elements listed in 49 USC §60134 through the actions it has specified in its Application.

- ⌚ *Element (1):* Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective communications between stakeholders from receipt of an excavation notification until successful completion of the excavation, as appropriate.
- ⌚ *Element (6):* A process for resolving disputes that defines the State authority's role as a partner and facilitator to resolve issues.
- ⌚ *Element (7):* Enforcement of State damage prevention laws and regulations for all aspects of the damage prevention process, including public education, and the use of civil penalties for violations assessable by the appropriate State authority.
- ⌚ *Element (9):* A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews.

Accomplishments for this period (Item 1 under Agreement Section 9.01 Progress Report: "A comparison of actual accomplishments to the objectives established for the period.")

The Kansas Corporation Commission, (KCC), applied for a grant of \$73,667 in order to enhance our enforcement efforts of the Kansas Underground Utility Damage Prevention Act by establishing a pilot enforcement program in Wichita and Lawrence/Topeka/Manhattan metropolitan areas.

Wichita Inspector Status:

In June of 2008, we were fortunate to hire an inspector for the Wichita area that has extensive damage prevention experience. He was supplied with transportation, a computer, and blackberry. Because of his experience level, we were able to leverage his skills to provide a series of educational meetings on the CGA Best Practices. In an effort to reach our goal with **Elements 1 and 6**, we have provided several seminars to contract

locating staff and to excavating contractors in the Wichita area. They are typically 1 to 2 hours in length and focus on utility locate site management techniques and explanation of Kansas damage prevention laws. Opportunities for the education seminars began as follow up to field observations associated with One Call law violations or investigations of utility strikes. Within six weeks, the popularity of the seminars has been recommended by word-of-mouth, and we are now being contacted by excavating contractors requesting the meetings. Meeting statistics to date are as follows:

Educational Meetings

Butler & Sedgwick Counties	Presentations	Contractor Meetings	Utility Meetings	Locate Contractor Meetings
Prior to Grant	0	0	0	0
Grant to Date	3	8	5	2

The primary focus of this grant is enhanced enforcement of damage prevention laws in metropolitan areas that have historically not had a focused enforcement presence. In cooperation with Kansas One Call, Inc., we have been provided with real time access to the KOC locate ticket database. The importance of having access to this data can not be stressed enough. It allows access to each locate in the database as well as providing powerful query tools. We have also contacted underground utility operators in the area and obtained their agreement to notify us when a damage occurs. Timely investigation of line strikes enables us to conduct investigations while the damage utility is exposed and interview stakeholders working at the site at the time of the damage. This “rapid response” provides accurate and efficient investigations and considerably reduces the after-the-fact investigations we have conducted in the past. All damage data is entered into the KCC virtual DIRT database.

Although all field work does not lead to enforcement action, it always provides the opportunity for improving awareness with the regulated community to the KCC’s role in damage prevention. To date, the field investigations have led to the issuance of 24 probable noncompliances. Indirectly, one of the KCC enforcement investigations has resulted in the City of Wichita taking action to suspend the license of a plumbing contractor suspected of performing illegal repairs to gas service lines. KCC staff is planning to take further enforcement action on 3 of the 24 pnc’s and will recommend civil penalties in formal actions before the Commission. Site visits and damage investigations statistics are as follows:

Data Range: June 20th 2008 – September 30th 2008

Butler & Sedgwick Counties	Tickets Reviewed	Site Visits	Damages Investigated	Noncompliance Written
Prior to Grant	0	0	0	0
Grant to Date	3800 +/-	160 +/-	45 +/-	24

Topeka/Manhattan/Lawrence Metropolitan Inspector Status:

Application of the grant in the Topeka-Lawrence corridor has begun after a slow start. We had difficulty finding a person interested in taking this position for only a few months. I am happy to report we were able to fill the position in early September, and we are now in the process of training the inspector and establishing an enforcement presence in this area. In only 2 short

weeks, progress has been promising and I am looking forward to reporting good results at the end of the next reporting period.

Issues, Problems or Challenges (Item 3 under Agreement Section 9.01 Project Report: “The reasons for slippage if established objectives were not met. “)

As noted above, the short life of the grant has made it difficult to fill the inspector position for the Manhattan-Topeka-Lawrence corridor. This fact has resulted in no progress to date in this geographic area.

Other pertinent information including, when appropriate, actions taken to address the recommendations PHMSA provided in correspondence dated April 4, 2008

Via email the following questions were posed to the KCC staff regarding certain PHMSA recommendations. A response was provided in May of 2008. The following is an update on our progress and responses as outlined in our previous correspondence.

1. Solicitation, Section 6.01, Criteria (6) states, “A commitment to quality controls in timing, personnel, and costs for deliverables offered in exchange for the grant.” We would like to see more detail on your commitment to this criterion.

The KCC has set up a separate accounting docket to track all expenses related to administering this grant. This grant enabled the KCC to hire two additional full time staff for the term of the grant to conduct enforcement actions. Each inspector provides daily logs of actions taken. Also, we hold daily phone meetings on issues that occur during the course of investigation.

2. The proposal as written indicates funding will be used to pay for personnel for the remainder of the year. While the choice of personnel to hire is good, there is a concern that long-term plans are not in place if grant funding is not available next year. We would like to see the long-term plan to keep the “grant personnel” onboard past the 2008 calendar year.

As noted in our earlier correspondence, we consider this to be a pilot project. After three months of operation, the results demonstrate a need to continue an enhanced enforcement presence in the Wichita area. At this time, the enforcement impact in the Manhattan-Lawrence corridor has not been established. Based on initial state budgets, KCC management sees little opportunity of receiving approval for two additional full time employees that are funded using state resources. KCC staff is committed, however, to applying for a continuation of this grant for both positions through the 2008 calendar year on the basis that preliminary results in Wichita are successful and we have not fully tested the impact of enforcement in the Topeka area.

All information on damages investigated will be loaded into the DIRT program, and a report based on our findings along with statistics similar to those reported above will be provided at the end of the grant term.

Mid-term Financial Status Report

See Attached

Plans for next period (remainder of grant)

At this time, we plan to continue our strategy toward enforcement. This includes use of the call center's real time database to investigate locating anomalies as soon as possible and to investigate all line strikes. In addition to recommending additional civil penalties, our enforcement strategy is coupled with a strong educational component that will foster communications among all parties.