

2014 State Damage Prevention Program Grants Final Report  
CFDA Number: 20.720

**Award Number:** DTPH5614GPPS08

**Project Title:** Maryland Underground Facilities Damage Prevention Authority State  
Damage Prevention Grant

**Date Submitted:** October 20, 2015

**Submitted by:** James A. Barron, Executive Director

**Specific Objective(s) of the Agreement**

Under this grant agreement, the Authority will enforce:

- Laws and regulations of the damage prevention process

**Workscope**

Under the terms of this grant agreement, the Recipient will address the following elements listed in the approved application as stated in 49 U.S.C§60134 (b).

*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.

**Accomplishments for the grant period (Item 1 under Agreement Article IX, Section 9.02 Final Report: “A comparison of actual accomplishments to the objectives established for the period.”)**

As noted above our primary objective is enforcement as detailed in *Element (7)* of 49 USC§60134. During the period from September 22, 2014 through September 21, 2015, the Authority was very busy achieving this objective. Eleven (11) monthly meetings were held (no meeting in December) at which thirty-eight (38) hearings were held during six (6) of those meetings. Simultaneously the Authority received an additional seventy-six (76) Notices of Probable Violation (NPV's) to be addressed, researched and monitored. Also during that time period the Authority, after review, recommended \$118,000 in fines. After hearings, the Authority levied \$56,000 in fines and collected \$26,000 of those fines. All decisions made by the Authority after hearings included both fines and Mandatory Damage Prevention Training.

Four (4) of the Authority decisions from the February 4, 2015 hearings, which included \$8,000.00 in fines, have been appealed to the Circuit Court of Anne Arundel County Maryland. Oral Arguments on those appeals are schedule for January 4, 2016.

Five (5) previous decisions of the Authority were appealed to the Circuit Court of Anne Arundel County. Oral Arguments were heard on those appeals on October 20, 2014 and a decision in favor of the Authority was rendered in November of 2014. Since then those

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decisions have been appealed to the Maryland Court of Special Appeals. Oral Arguments on those appeals will be held on October 13, 2015.

A final yet very important appeal of a decision of the Authority is still in the appellate process. A contractor who received an unfavorable decision of the Authority back in 2014 has appealed that decision challenging the Constitutionality of the Authority. A 34-page written decision in favor of the Authority was rendered by the Anne Arundel Circuit Court and was subsequently appealed to the Maryland Court of Special Appeals. Oral Arguments were heard in that case on April 10, 2015 and a favorable opinion for the Authority was rendered on April 29, 2015. The Contractor has since petitioned the Maryland Court of Appeals, the highest Court in Maryland, for a Writ of Certiorari, requesting the Court to hear Oral Arguments in that case. The Maryland Court of Appeals agreed to accept the Writ of Certiorari on August 15, 2015. Oral Arguments in that appeal will be heard sometime in January 2016.

A new problem surfaced during this time period that required the Authority to establish a collection process for those Probable Violators who refuse to pay the fines levied. Currently the Authority has nine (9) NPV's with a total of \$19,000.00 in fines that the Authority is attempting to collect through our new legal collection process.

Each year, the Authority is required by statute to submit a report to the Governor and Maryland Legislature. This year a ninety-page (90) report, which can be viewed on our website, was submitted outlining and reviewing the activities of the Authority during calendar year 2014.

In October of 2014 for the first time, The Authority became a Gold Sponsor of the Greater Chesapeake Damage Prevention Training Conference held in Ocean City Maryland. We sponsored a booth in the show and presented an education session updating the progress of the Authority. In addition to that show, the Authority sponsored a booth at the Maryland Municipal League Summer Conference in June and at the Maryland Association of Counties Summer Conference in August.

During the course of this Grant year the Authority has made several education presentations to different groups about the Authority, its functions and processes. Included in those were presentations to a California Senate Working Committee on January 14, 2015; to the Maryland/DC Damage Prevention Committee on January 27, 2015; to Gray and Sons Construction Company on February 5, 2015; to the Howard County Department of Public Works on April 16, 2016; to the Associated Utility Contractors of Maryland on June 8, 2015; to the Public Works Contractors Association on September 15, 2015 and to the Utility Service Protection Center of Delmarva on September 17, 2015.

The Authority sponsored Cross-Bore Legislation in the 2015 session of the Maryland Legislature, which passed and will become law on October 1, 2015.



And finally, the Authority sponsored quarterly damage preventions training session for contractors, five (5) of which were conducted during this time period. Training sessions were held on September 25, 2014; November 13, 2014; February 20, 2015; June 25, 2015 and September 11, 2015.

**Quantifiable Metrics/Measures of Effectiveness (Item 2 under Article IX, Section 9.02 Final Report: “Where the output of the project can be quantified, a computation of the cost per unit of output.”)**

The Authority has yet to set up a baseline from which our progress can be measured. Without some sort of mandatory reporting, we don't see a viable baseline being established any time in the near future. Therefore, no Quantifiable Metrics/Measures of Effectiveness has been established

**Issues, Problems or Challenges (Item 3 under Article IX, Section 9.02 Final Report: “The reasons for slippage if established objectives were not met.”)**

The work under this grant agreement has moved steadily forward after receiving the first 50% grant allocation in October 2014 and the 2<sup>nd</sup> 50% grant allocation in September of 2015. With no Quantifiable Metrics, we are unable to measure any gains or slippage. However, there have some issues, problems and challenges we are attempting to overcome during this SDP Grant Year. Most important is the establishment of a dedicated steady revenue stream to fund the Authority and promote it's much needed growth. A subcommittee of the Authority with some invited stakeholders from the facility owner's group has looked at this issue. Three proposals were considered: (1) adding 5 to 10 cents to the cost of outgoing tickets with that revenue dedicated to the Authority; (2) allowing up to 50% of the fines collected to be used by the Authority to cover operating costs and (3) creating an online training component requiring an annual fee from contractors to help fund the Authority. The subcommittee has made a recommendation to the Authority to add 5 cents to all outgoing tickets which would generate about \$400,000 in funds to operate the Authority. The Authority will vote on this recommendation at the October 7, 2015 meeting and, upon approval, draft legislation to submit to the Maryland Legislature in the 2016 Session.

The Authority negotiated a larger office space at the One Call Center so additional employees can be hired to enhance the administrative and investigation processes of the Authority. The Call Center provided that new space in August 2015 and a new lease was finalized. Our part time administrative person's hours were expanded and she is now working 16 to 24 hours per week. We are presently working with the Call Center to again expand that space so a full time investigator can be brought on board.

#### **Final Financial Status Report**

The Final Federal Financial Report (Standard Form SF-425) is attached hereto. A breakdown of line (b.) is shown below. Documentation such as invoices, receipts,

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spreadsheets, etc. will be forwarded by U S Mail to the AOR and AA on October 21, 2015.

|                             |                 |
|-----------------------------|-----------------|
| Travel/Conferences Expenses | \$ 3,480.00     |
| Supplies                    | 4,000.00        |
| Contractual                 |                 |
| Website Maintenance         | 3,000.00        |
| Executive Director          | 79,000.00       |
| Office Associate            | 4,720.00        |
| Accounting                  | 2,800.00        |
| Other                       |                 |
| Office Rent & Utilities     | <u>3,000.00</u> |
| Total                       | \$100,000.00    |

**Requests of the AOR and/or PHMSA**

No specific requests will be submitted with this final report.