

**2016 State Damage Prevention Program Grants Progress
Report CFDA Number: 20.720**

Award Number: DTPH5616GSDP08

Project Title: Maryland Underground Facilities Damage Prevention Authority “the Authority” - State Damage Prevention Grant

Date Submitted: January 18, 2016

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Specific Objective(s) of the Agreement

Assist in the continued operation and maintenance of its web-based Damage Reporting and Enforcement System; bolster its violation investigation process, as well as the development of an on-line education module and expand its outreach and education throughout the State of Maryland. The Authority was created in 2010 by an Act of the Maryland General Assembly and its stakeholder membership was created by the Maryland General Assembly with the express purpose of enforcing the One Call Notification program in Maryland. Statute, the Authority is required to present a comprehensive Annual Report to the Governor of Maryland and Members of the Maryland General Assembly. The Authority has just delivered its Sixth Annual report to the Executive and Legislative branches of Maryland State Government.

The Authority will refocus its use of the PHMSA SDP funding away from an emphasis on staffing to the development of educational tools, such as on-line training and a potential portable APP to be utilized in the field. Current Authority staff has changed from contractual to a salaried basis. In addition, the change in the use of funds will allow Authority staff to attend three (3) major conferences which will reach all twenty-four (24) counties and 167 municipalities throughout the State. The Authority will also sponsor and participate in the annual Greater Chesapeake Damage Prevention Training Conference*. One contractual staffer will be hired and supported by this grant, in order to expand and enhance the investigation arm of the Authority. All of these goals are in compliance with the requirements of the U.S. Department of Transportation's (DOT's) Pipeline & Hazardous Materials Safety Administration Damage Assistance Program's Best Practices and the Maryland Chapter 635 Underground Facilities Damage Prevention Law.

Workscope:

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

- **Element 5 (Public Education):** A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities.
- **Element 7 (Enforcement):** The 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 8 (Technology):** A process for fostering and promoting the use, by all appropriate stakeholders, of improving technologies that may enhance communications, underground pipeline locating capability, and gathering and analyzing information about the accuracy and effectiveness of locating programs.

Accomplishments for this Period:

Note: We have included commentary on any Quantifiable Metrics/Measure of Effectiveness and Issues, Problems or Challenges throughout this section if the 2016 Progress Report.

Public Education: The Authority “brand” has truly become recognized as the enforcement arm of the “Maryland “Miss Utility” law and a resource to the private sector for damage prevention information and education. A fact which became more evident when the Maryland Court of Appeals (the state’s highest court) in *Reliable Contracting, Inc. vs. Maryland Underground Facilities Damage Prevention Authority*; which challenged the constitutionality of the Authority. **In addition, the Authority was deemed an Agency of the Executive Branch of Maryland State Government with quasi-judicial authority. This finding does not include a line item in the Maryland State budget, since the Authority is autonomous and responsible for its own budget and funding sources.** Stake Holder interaction continues to be enhanced and increased. Working with the MD/DC – Damage Prevention Committee, the Authority shares materials and supports training activities that cover all aspects of the Title 12 law.

- The Authority continues to support the efforts of the MD/DC-DPC by information sharing, cross marketing, material development and funding. As an enforcer, the Authority also stresses and promotes the Miss Utility/ 811 “call before you dig” program. The Authority recognizes that this endeavor has a direct impact on the reduction of damages to underground facilities. This budget cycle the Authority pledged \$15,000 to support the April media buy for the statewide 811 radio campaign. There will also be a 811 “Dig Deep” player highlight on MASN, the Baltimore/Washington Baseball TV channel after every game report during the month of April.

- **During the 2016 calendar year the Authority participated in 18 presentations and conferences and trained over 3000 industry workers; which reflects a 54% increase in trainees over the previous year. We attribute this uptick to increased awareness regarding 811 and the emergence of Authority's reputation as the enforcement arm of the law.**
- New materials and promotional items have been designed and purchased for the various outreach programs the Authority and the MD/DC-DPC participate in; which includes the Maryland Association of Counties Annual Conference, the Maryland Municipal League Summer Conference and the **Greater Chesapeake Damage Prevention Training Conference (500 attendees each year for this three (3) day event).** **

Enforcement: In 2016, Authority collected \$78,400.00 in fines which have utilized in the advancement of underground facility damage prevention and the 811 program. All fines collected by the Authority go directly into its Education and Outreach Fund. None of these monies are used for operational activities, such as salaries, office maintenance.

- As a result of the 2016 ruling of the Maryland Court of Appeals, the Authority has developed a Standardized Fining Matrix (SFM) which takes into account three (3) factors: 1) Seriousness of the violation; 2) Intent "good faith" of the violator; and, 3) Past history of violations. These requirements are set forth in the State Government Article §10-1001 and are to be used when adjudicating NPV's. The SFM is a three-point weighting system with multiple factors in each category for calculating the violators offense and mitigating circumstances. The weights are applied to the standard fine of \$2000.00 and reduced accordingly by percentages; then a discount is applied for training. Since the SFM's inception the Authority has seen an increase in "Acceptance" rates which correlates with the increasing numbers of workers trained.
- In order to continue to address the volume of NPV's filed and the reduction of turn-around time. The Authority intends on hiring a ¾ time person to investigate occurrences and develop reports. **This activity has been delayed due to the closure of the Authority's offices for five (5) months while a major building renovation took place. Staff was forced to work from home during this period which affected the ability to interview candidates for the position. In addition, while waiting for the court decision to be handed down by the Maryland Court of Appeals, the Authority was forced to suspend its hearings for eight (8) months. This created an even greater backlog for staff.** Hearings have now been reinstituted and the Authority has returned to its new office suite. The new suite will allow for growth, but will add greater overhead.
- During the 2016 Session of the Maryland General Assembly, the Authority was able to successfully push through legislation that provides a permanent funding stream for the Authority's operating expenses. With the support of its stakeholders, the Authority will now receive five (5) cents on every outgoing ticket in Maryland. This surcharge will provide an estimated \$250,000 per year for the Authority while maintaining its autonomy from state government.

- In the 2017 report to the Maryland General Assembly and the Governor, the Authority was able to show that there has been a 60% increase in the number of NPV's filed over the previous year; a 53% increase in the number of industry workers trained; and, a 75% increase in fines paid. Since the Authority is a complaint driven program, we see this as a good example its increased effectiveness.

Technology: The Authority will continue to maintain and utilize its on-line capabilities to advertise and facilitate public education, including posting conferences, seminars, articles, etc. In addition, the Authority is requested a portion of the 2016 SPD grant to begin developing an on-line training module, which will help reach a wider audience and be more convenient for those in need of training, particularly those who work in the field. And more specifically the development of a bi-lingual component, as we are seeing a dramatic increase in the number of Hispanic companies coming before the Authority.

- **This portion of the grant request is behind schedule due to the five (5) months we were away from our offices during renovations. The Authority has begun to put out RFPs for tracking software, on-line service enhancements and the bi-lingual mobile app.**

Mid-term Financial Status Report:

The Mid-term Federal Financial Report (Standard Form SF-425 is attached). Also attached are the receipts for the items listed in the breakdown shown below:

<i>Other</i>	
<i>(MACo & MML Booths)</i>	<i>\$2,145.00</i>
<i>Total</i>	<i>\$2145.00</i>

Plans for Next Period:

Due to the five (5) months in delays caused by the lack of access to the Authority offices, the plan for the next period is to implement all goals set forth for the initial months of the grant period. (i.e. interview new hire, set-up contracts for software development and website overhaul etc.)

Requests of the AOR and/or PHMSA:

***/**Note:** As in previous years, the Authority will be participating in the Greater Chesapeake Damage Prevention Training Conference. Noted in your August 24, 2016 Grant Agreement was the statement that "...PHMSA did not deem that the \$3000.00 sponsorship for said conference met the grant's project objectives." To which the Authority and our stakeholder partners whole-heartedly disagree. It should be noted that this item has been an acceptable expenditure in previous grant cycles

The GCDPC "Sponsorship" is the most economical way to participate in this event. A "Gold Sponsorship" includes a 10X10 booth in the Exhibit Hall, passes for two exhibitors which includes: daytime meals, access to all seminars and two (2) hotel nights. Plus, the Authority's logo is printed on all meeting materials. This is a very important regional meeting for Maryland damage prevention community and it is essential that the Authority have a major presence at this conference. Therefore, the Authority is requesting that \$3000.00 of the 2016 State Program Grant be re-allocated from another category (i.e. Investigator Salary) to use for participation in the upcoming Greater Chesapeake Damage Prevention Conference. We included the same amount in the 2017 grant application for the same reason.