

2016 State Damage Prevention Program Grants Final 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 15, 2016

Submitted by: James A. Barron

Specific Objective(s) of the Agreement

Under this grant agreement, the Authority will:

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 fifth Annual report to the Executive and Legislative branches of Maryland 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):** 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 (Item 1 under Article IX, Section 9.02 Final Report: “A comparison of actual accomplishments to the objectives established for the period.”)

The enforcement (**Element 7**) of Maryland

State Damage Prevention laws, remains the primary mission of the Authority, through the utilization of a robust Education and Outreach program, strong stakeholder partnerships and adjudicative actions against reported violators of the “Miss Utility” law in Maryland. During the period of the 2016 PHMSA State Program Grant from September 01, 2016 through September 29, 2017, the Authority has continued to step up its efforts in all the Elemental areas, set forth in the 2016 grant submittal. The Authority continues to see progress and success in all of these areas; and is most proud of achieving an “**Adequate**” program status after the 2016 PHMSA State Damage Prevention sight visit and review.

During this grant period, the Authority met twelve times (12), at which one (1) hearing was held. Seventy-nine (79) Notices of Probable Violation (NPV’s) were filed; this is a slightly lower volume for this grant period due to the suspension of NPV filings for a short period of time. The suspension was invoked in order to catch up on the processing of NPV’s. Once, a regular part-time investigator was hired as requested in the 2016 SDP grant, the Authority was able to address the NPV backlog and resume accepting them. Also, during that time period the Authority imposed \$36001.00 in fines from previous decisions of the Authority, and has collected \$19,350.25. Since the development and implementation of the Authority’s Standardized Fining Matrix (SFM); which was mandated by the Maryland Court of Appeals in their ruling on the *Reliable Contracting v. Maryland Underground Facilities Damage Prevention Authority* case, the Authority has seen a marked increase in the acceptance of fines set forth by the Authority’s board members (these nine members sit as administrative law judges during

hearings), and a large reduction in the number of hearing requests. The SFM determines values for the violator's previous history with Miss Utility, the seriousness of the incident and intent of the violator. The values equate to discounts to the base fine of \$2000.00 for the infraction, with an additional discount for participating in damage prevention training. There are thirty-two NPV's (32) in the "Closed/Incomplete Status"; which indicates that they have either paid the assessed fine and not participated in Damage Prevention Training or have taken training, but not paid their fines. These NPV's will be on a watch list for future reference. Should any of these companies have a subsequent violation, their lack of training or fine payment will be taken into consideration when the Authority reviews their next infraction.

During the 2016 SDP Grant period, the Authority has begun a Title XII re-write, which will be introduced to the Maryland Legislature at their January 2019 session. A core group of committee members representing all aspects of the underground utility community are represented on the committee. The group is operating under a consensus model similar to the Common Ground Study. So far, the group has met nine (9) times an average of twice a month and is currently working on the Definitions section of the law. New definitions, such as "damage", "excavation", cross bore" and "extent of work" have been added to the statute. In addition, a new fine of \$5000.00 is under consideration for the abuser of emergency tickets; which has become a big problem in Maryland.

As part of our **Element 5 – Public Education** requirement, the damage prevention training component of the Maryland SDP is currently carried out by the Maryland/DC Damage Prevention Committee. The Authority provides material and financial support for this training program. The demand for training is currently outstripping the Committee's ability to provide the volunteers necessary for the five (5) hour workshop. These sessions have grown from four (4) quarterly classes held at the Miss Utility conference center to weekly sessions held around the state, many of which are held at company facilities wishing to elevate their employee's knowledge of best practices and damage prevention. In addition, several training sessions have been conducted in Spanish, and we see a growing need to increase the bi-lingual aspect of the program. The Authority foresees taking on the training aspect of the program in the near future with the addition of a certified, bi-lingual damage prevention trainer as an employee of the Authority.

The Authority continues to develop leading edge promotional and educational materials and participated in 2017 Maryland Municipal League Summer Meeting and the 2017 Maryland Association of Counties Summer Conference and will be sponsoring for the fourth consecutive year the 2017 meeting of the Greater Chesapeake Damage Prevention Training Conference (GCDPTC), where the Authority will present case studies and a mock hearing for the conference attendees participate in as judges. In addition, the Authority in partnership with Miss Utility have requested and written a proposal to the Maryland Municipal League asking for opportunity to present a training/educational breakout session for public works directors and their employees from across the state of Maryland at their 2018 summer conference.

The Authority again donated \$25,000.00 for the 2017 "811- Call Before You Dig", media campaign for the Greater Baltimore/Washington radio market, and several other 811 awareness events. As before, these spots are also placed in the Spanish speaking market place. The

Authority continues to participate in the monthly Damage Prevention Committee meetings, where timely updates are presented to members of the utility contracting, locating and facility owner communities. The Authority has also developed a Facebook page for up to the minute updates.

As part of the 2016 grant request, monies were allocated to begin the development of a web-based training program suitable for continuing education and an information resource in the field. The Authority's has engaged a web development and data management firm to completely revamp the Authority website and to develop a case management program expressly for the Authority's use. The CMP will be web-based with modules for Notice of Probable Violation (NPV) filings, NPV status monitoring and reminders, automated notification generation, queries and the ability to analyze and utilize damage data reported to the Authority, by the One Call system and the Maryland Stake Holders group to assess the Authority's effectiveness. This project was outlined in **Element 8 – Technology** portion of the grant request. A majority of the CMP design phase has been completed and we are on schedule to begin writing the program with beta testing to begin on some modules by midterm of the 2017 SDP grant.

The Authority was able to move into an office suite, which can accommodate the Executive Director, the Deputy Director and an administrative assistant, with room for at least two (2) more employees if necessary. The Executive Director, Jim Barron, is the only full-time position at the Authority. Ms. Susan Stroud, formally the Assistant to the Executive Director and working two to three days a week, has now become the Deputy and has taken on NPV investigations along with office management duties and is now working four to five days per week. The Authority office has hired an Administrative Assistant, Ms. Hira Zaidi to handle correspondence and the NPV in-take process. Ms. Zaidi works 20 hours per week. Once the CMP is fully operational, many of the Authority's case tracking and correspondence will become automated.

Quantifiable Metrics/Measures of Effectiveness (Item 2 under Article IX, Section 9.01 Final Project Report: “Where the output of the project can be quantified, a computation of the cost per unit of output.”)

The Maryland Underground Facilities Damage Prevention Authority operates on a “complaint driven” model. Since the inception of the Authority in 2011, the Authority has continued to see a steady increase in NPV's, fines collected, training obtained and trends in the types of violations. Failure to call the One-Call System continues to be most prevalent issue in Maryland, however that is driven by the type of violation the facility owners choose to report. The Authority has obtained an agreement with the stakeholders group to begin sharing their voluntary damage reports to the One-Call Center which will be integrated in our new program in order to gauge effectiveness. In addition, the Maryland Public Service Commission shares their damage data with the Authority.

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

During the 2016 SDP grant period, the Authority hired a part-time investigator as proposed in the grant application. Unfortunately, that person was not a good fit and left the position. A second person was hired immediately, but left for a full-time position in her field. Seventy-nine (79) Notices of Probable Violation (NPV's) were filed; this is a slightly lower volume for this grant period due to the suspension of NPV filings for a short period of time. The suspension was invoked in order to catch up on the processing of NPV's. Once Ms. Stroud, the Assistant to the Executive Director began doing investigations along with her administrative duties the Authority was able to address the NPV backlog and resume accepting them. The added responsibility and work load caused Ms. Stroud to increase her time to four (4) days per week and occasionally five (5) days. A part-time administrative assistant has been hired to assist with correspondence and case tracking.

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, spreadsheets, etc. will be mailed via USPS no later than last week in October 2017.

	<u>2nd Term Expenditures</u>	<u>Final Balance</u>
Travel/ Conference Expenses	\$2,882.65	(\$342.65)
Contractual		
• Website Maintenance	\$3000.00	(\$2000.00)
• Web-based training and CMP development	\$40,000.00	(\$200.00)
• Deputy Director/Investigator	21,701.05	\$5,653.41
Other		
• Gold Sponsorship for GCDPTC (2016 GCDPTC Gold Sponsor)	\$3,000.00	(\$3000.00)
• Maryland Municipal League		\$115
• Maryland Association of Counties		(\$200.00)
Indirect		
• Office Rent & Utilities	\$2768.09	\$1825.66
Total	\$25,534.44	\$1,851.42

Requests of the AOR and/or PHMSA

The Authority is requesting that \$11,896.63 of the \$41,600.00 set aside of the contractual Part-time investigator be re-allocated to offset Ms. Stroud's additional hours once she assumed the duties of the part-time investigator. A breakdown of her payroll has been included in the 2016 SDP Grant Budget document, which will be sent via the USPS along with all other pertinent receipts.