

**2009 State Damage Prevention Program Grants Final Report**  
**Funding Opportunity Number: DTPH56-09-SN-0001**  
**CFDA Number: 20.720**

**Award Number:** DTPH56-09-G-PHPS11

**Project Title:** Tennessee Regulatory Authority State Damage Prevention

**Date Submitted:** July 30, 2010

**Submitted by:** Larry K. Borum

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

The initial grant application objectives were revised based on information previously submitted. The objectives for the second year of damage prevention program improvement initiative are as follows:

- Provide support as requested to the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) study group.
- Build support for the revised Tennessee Underground Utility Damage Prevention Act (TUUDPA) through interaction with stakeholder groups.
- Prepare and disseminate a step-by-step description of the process and procedures associated with an enforcement section as established under the Tennessee Regulatory Authority (TRA).

After completing the first three objectives, meet with stakeholders who oppose the revised TUUDPA and come to an agreement on the elements of a revised law that all stakeholders can support.

**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 (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.

The initial grant application tasks were revised based on information previously submitted. In summary, the tasks identified for accomplishing the above objectives are as follows:

- Continue efforts meeting with stakeholders to increase support base.
- Provide a Damage Prevention Initiative Coordinator (DPIC) to function as the liaison between the Tennessee Regulatory Authority and the Tennessee Advisory Commission on Intergovernmental Relations (TACIR) study group.
- The responsibilities of the DPIC will include the development of a program for meeting with the appropriate representatives of utility districts, municipalities,

private operators and other stakeholder groups to explain details of the revisions record comments and answer questions in an effort to build support for the revised TUUDPA.

- The Coordinator will develop presentations and establish schedules for meeting with stakeholders. This task will include preparation of a step-by-step description of the process and procedures associated with an enforcement section as established under the TRA.

Comments gleaned as a result of completion of the above tasks will be reviewed for possible revisions to the proposed legislation

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

- The Damage Prevention Initiative Coordinator (DPIC) came on board September 1, 2009. Earnest Burke, a retired long time gas pipeline safety engineer with the TRA, Gas Pipeline Safety Division (GPSD), was hired to fill the temporary position. Mr. Burke is highly respected by Tennessee natural gas system operators and by many utility district operators across the State.
- Mr. Burke began contacting natural gas operators in September 2009 to discuss the revisions to the TUUDPA and to attempt to answer any questions or address concerns they might have. In addition, he specifically asked each operator what experiences they had relative to work done near their facilities by the Tennessee Department of Transportation, County Highway Departments and railroads or their contractors. Accompanying this report is a copy of data compiled from Mr. Burke's contacts with natural gas operators across the State of Tennessee. The spreadsheet contains answers provided by operators relative to questions concerning their relationship with the Tennessee Department of Transportation, railroads, and county highway departments as well other comments relative to damage prevention issues. This information was compiled for determination if some flexibility in the requirements of the revised TUUDPA is possible for some agencies and utilities other than natural gas without lessening the effect of improvements in the damage prevention program in Tennessee.
- Mr. Burke also made personal visits to some natural gas operators that are active in the Tennessee Gas Association (TGA) and the Tennessee Association of Utility Districts (TAUD) to communicate the need for revisions to the TUUPDA, address questions and concerns and build a nucleus of support.
- Mr. Burke attended the TGA Fall Conference on October 21, 2009 where he, along with Bill Turner of TN811 and Larry Borum, attended a meeting with approximately 25 TGA Board members to discuss formal support for the revisions to the TUUPDA.

- Ms. Ethel Detch of the TACIR Committee interviewed Mr. Burke and Larry Borum on November 5, 2009. The interview was conducted to answer questions relative to the gas pipeline safety program and the program's connection to underground utility damage prevention.
- The deadline for completion of the TACIR study was extended from February 2010 to January 2011 to provide additional time for studying the effectiveness of Tennessee's current underground utility damage prevention program.
- TACIR conducted a meeting on July 1, 2010 to discuss the status of its study of the current state damage prevention program. Accompanying this report is a copy of the memorandum of July 1, 2010 documenting the status of the TACIR study.

The first two specific objectives of our agreement have been accomplished to the degree possible at this stage of the legislative process. We have not reached a point in the process for preparation and dissemination of a step-by-step description of the process and procedures associated with an enforcement section as established under the Tennessee Regulatory Authority (TRA).

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

Under the present TUUDPA there is virtually no enforcement activity. Before improvement can be realized in enforcement, the current act must be amended. The purpose of this initiative is to lay the foundation for fair and consistent enforcement of the damage prevention law. Since the mid-term report, our involvement in the TACIR study process has been limited to answering commission questions and responding to other commission requests for information. Members of the TACIR committee have been directed to Annmarie Robertson for clarification of issues from the Federal standpoint.

At this time there is no project output that can be quantified. However, the data captured in the above referenced spreadsheet through Mr. Burke's work will be very beneficial as interaction with stakeholder groups increases during the consensus building process. Although not quantifiable, the nature of the continuing legislative process will undoubtedly result in additional exposure for the topic of underground utility damage prevention.

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

Attempts to bring critical stakeholder groups to the table to discuss problems with the proposed revisions to the TUUDPA have been unsuccessful. These groups of stakeholders are waiting on the results of the TACIR study and to some extent the development of the Pipeline Damage Prevention Programs Advanced Notice of Proposed Rulemaking. It is our understanding that the TACIR Committee during the July 1, 2010 meeting stated that even though the study was ongoing and recommendations unknown at

this time, stakeholders should be working together on this effort. This direction should provide the impetus for successful efforts to bring stakeholders together to continue a consensus building process.

The greatest challenge to our effort came in the form of a medical problem for Mr. Burke that resulted in a cessation of his work from March 24, 2010 until the present time. Even though we have a 2010 SDDP Grant, we are uncertain when he will be physically able to continue his work. Under the constraints of state government, hiring another person to continue the damage prevention program improvement effort is a slow process. Even without Mr. Burke, our work will continue as a result of our partnership in this effort with TN811.

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

The final financial report has been sent as a separate attachment to the AA.

#### **Requests of the AOTR and/or PHMSA**

No requests at this time.