

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

Award Number: DTPH56-09-G-PHPS05
Project Title: State Damage Prevention Program
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Specific Objective(s) of the Agreement

Under this grant award, the Kansas Corporation Commission will continue the pilot program begun in 2008 to augment the enforcement of the Kansas Underground Utility Damage Prevention Act. The program will be revised to include one full time employee dedicated to damage prevention inspections in the Wichita area for all of 2009. The Kansas Corporation Commission will also use the funding to evaluate the effectiveness of an aggressive enforcement program by using the mandatory damage reporting requirements in effect in Kansas.

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 (4):* Participation by operators, excavators, and other stakeholders in the development and implementation of effective employee training programs to ensure that operators, the one call center, the enforcing agency, and the excavators have partnered to design and implement training for the employees of operators, excavators, and locators.
- *Element (5):* A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities.
- *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

Through July 31, 2009, the Kansas Corporation Commission has used this grant to fund one FTE for a full time inspector dedicated to damage prevention in the Wichita area. Although the condition of the overall economy has resulted in approximately a 10% reduction in the number of statewide locate requests, the Wichita position has proven to be productive in enhancing the enforcement position of the KCC in that area of the state. Our progress for each of the elements cited in our application is as follows:

Element 7: As stated in the grant application, Kansas performance of Element 7 is the major focus of this grant. For the most part, our enforcement activity consists in monitoring the locate requests on a real time basis, and performing a field investigation on as many damages or emergency locate requests as possible. Based on the results of the field investigation, the KCC staff will issue notices of probable violation to offending party which in some cases, lead to civil penalties. In the last quarter of 2008, KCC Staff established a process to streamline the use of civil fines for One Call violations. This approach of writing "traffic tickets" coupled with a stronger enforcement presence in the active excavation areas of the state assists KCC in meeting this goal. The effectiveness of our improved enforcement capability is demonstrated by Table 1 in the **"Quantifiable Metrics/Measures of Effectiveness"** section of this report.

Element 4 and 5: Our enforcement strategy relies largely on educating both excavators and utility operators on the requirements of the law and improving communication between excavators, utility operators, and the KCC. The field inspections funded by this grant provide us with many opportunities for training sessions. As shown in Table 2 in the **"Quantifiable Metrics/Measures of Effectiveness"** section of this report, the KCC has provided 28 face-to-face training sessions with both excavators and operators.

Element 9: Using the results described above for our progress with Elements 4, 5, and 7, we expect to be able to trend our success. The trending will be based on our activity as outlined in the section on quantifiable metrics and on our analysis of the semi annual damage report for the Wichita area. The damage report is a requirement of Kansas regulations.

Quantifiable Metrics/Measures of Effectiveness

After a full year of increased enforcement in the Wichita area, our results are beginning to the impact for one FTE dedicated to enforcement. However, the data is still considered to be preliminary and may be impacted by outside forces such as the economic downturn we are experiencing in the construction industry. The overall metrics indicate an active program that continues to grow and improve. A snapshot of enforcement activities in the Wichita area are given in Table 1:

Table 1: Oversight Review

	Job Sites Visited	Damages Investigated	PNC's Written	Financial Penalties Issued
First ½ 2008	0	0	0	0
Second ½ 2008	217	132	47	5
First ½ 2009	163	96	19	4*
Pending Actions				
Second ½ 2009				
Totals:	380	228	66	9

*One penalty for \$5,000 was directed to a local community college in support of its heavy equipment operator training program.

Table 2 is a summary of the contacts made during the first year of the project. This table is a good illustration of how KCC communicates with contractors, operators and stakeholders in the industry. As we build, develop, and resolve issues identified in the program, additional opportunities for education and clear direction of our educational efforts begin to develop. For the second half of 2009, we will begin tracking meetings by subject matter in order to see what topics are most in demand.

Table 2: Communications

	Industry Contacts Made	Contractor Meetings Held	Operator Meetings Held	Presentations Given
First ½ 2008	0	0	0	0
Second ½ 2008	78	26	9	21
First ½ 2009	31	17	5	6
Second ½ 2009				
Totals:	109	43	14	27

As time and data accumulate with this project, KCC is building a tool capable of identifying areas for improvement. We believe the enforcement efforts will have a positive impact on many, if not all, of the nine elements mandated by the PIPES Act. We expect KCC’s approach to enforcement to continue to evolve. As needs are identified, the focus of the program will be altered based on the program metrics listed above and on the response of the regulated community.

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

No problems or issues to report.

Mid-term Financial Status Report

The mid-term financial report has been sent as a separate attachment to the AA.

At this time, our projected costs will be below the grant estimate. The grant estimate included an increase in the pay level for the Wichita inspector. However, the Kansas Department of Administration has placed a moratorium on all pay increases through August of 2009. The moratorium more than likely will be extended through the 2009 calendar year. This decision by the Department of Administration will result in approximately \$10,700 of funds, (salary, fringe benefits and indirect costs), not being spent in the proposed manner.

Plans for next period (remainder of grant)

For the second half of 2009, we will track the number of hours spent in providing training and enforcement in order to allocate that portion of the grant funding that is spent on training and that portion that is spent directly on enforcement. In this way, we will be able to provide good estimates on the actual dollars spent for specific elements listed in our application. In July of 2009, operators of water and wastewater underground utilities were required to participate in the One Call system. With the addition of up to 700 new members of One Call statewide, some of

the KCC outreach funded by this grant will be used to train this type of operator that is located in the Wichita area.

Requests of the AOTR and/or PHMSA

As noted in the financial status report, it appears likely that we will not be able to meet our budget estimate because of policy decisions by the Kansas Department of Administration. In the alternative, we would propose to purchase and test a new type of locating device that appears useful in locating non conductive utilities. With the recent requirement that water and wastewater utilities provide locates of their facilities, the problem of being able to locate non conductive utilities will increase. Preliminary reports from Atmos Energy indicate this device has potential in providing locates under certain conditions. We would propose to use approximately \$5,000 of these funds to test the product and promote its use to the water and wastewater operators. The use and testing of this device would partially meet the objectives of Element 8.