



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue SE
Washington DC 20590

PIPELINE SAFETY

2010 State Damage Prevention Grant

for

RAILROAD COMMISSION OF TEXAS

Please follow the directions listed below:

1. Review the entire document for completeness.
2. Review and have an authorized signatory sign page 2.
3. Fasten all pages with a paper or binder clip - no staples please as this package will be scanned upon it's arrival at PHMSA.
4. Mail the entire document, including this cover page to the following:

**ATTN: Karina Munoz
U.S. Department of Transportation
Pipeline & Hazardous Materials Safety Administration
Office of Contracts and Procurement
1200 New Jersey Avenue, SE Second Floor E22-228
Washington, D.C. 20590**

FedSTAR Information

Submission Date: 8/28/2009 10:45:45 AM



**Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington DC 20590**

DEPARTMENT OF TRANSPORTATION

APPLICATION

2010 GRANT PROGRAM IN SUPPORT OF STATE DAMAGE PREVENTION

The RAILROAD COMMISSION OF TEXAS hereby applies to the Department of Transportation for Federal funds appropriated for the support of State Damage Prevention Programs established under 49 U.S.C. Section 60134 et seq.

The state agency plans to carry out the State Damage Prevention Program, during calendar year 2010, as described in Attachment 1, "Project Abstract/Statement of Objectives". To accomplish the program, the state agency proposes to expend funds as set forth in Attachment 4, "State Damage Prevention Estimated Budget".

Signature

Title

Date



Project Abstract/Statement of Objectives

Please provide a clear and concise description of the work this grant will fund for calendar year 2010

The Railroad Commission of Texas proposes to develop a training program for educating underground facilities operators, excavators, contractors, and the general public relating to the enforcement activities stemming from third party damage to underground pipeline facilities. The Commission is the enforcement authority for all damage to pipeline facilities caused by excavation, or any other movement of earth, near pipeline facilities. This enforcement activity is part of the Commission's program to adopt national Common Ground Alliance (CGA) best practices to reduce damages to underground pipeline facilities.

The Commission's Safety Division is responsible for enforcing the state's damage prevention laws as they relate to underground pipeline facilities. The Commission developed its rule to assess administrative penalties for violations of the damage prevention rules, but also provided an opportunity to allow training and education seminars in lieu of a monetary penalty. The Commission is prepared at this time to develop a training curriculum and programs to serve as this alternative method of penalty for violation of the state's damage prevention rules and regulations. With this grant proposal, the Commission seeks to identify the areas in need of training and education such as line locating, new excavation techniques, and the use of positive response systems and create courses to address these issues. Additionally, this grant will be used to purchase the necessary equipment or supplies to conduct these classes in the populations dictated by the largest number of violations.

The Railroad Commission initiated its enforcement program in September 2007, as part of the Commission's efforts to implement HB 2161 (79th Regular Legislative Session) and SB 9 (79th Regular Legislative Session). In the first year SFY 2008, the Commission received over 16,000 reports of third party damage to pipeline facilities.

The Commission's damage prevention enforcement efforts are still in the initial stages of implementation, and include the nine elements of an effective damage prevention program as identified in Section 2 of the Federal PIPES Act. This proposal targets element (6) "A process for resolving disputes that defines the State authority's role as a partner and facilitator to resolve issues," and 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 proposal will foster the support, education, and partnership of all interested parties and increase the overall awareness of damage prevention.

State Damage Prevention Elements

ELEMENT 1 - EFFECTIVE COMMUNICATIONS

"Participation by operators, excavators, and other stakeholders in the development and implementation of methods for establishing and maintaining effective communications between stakeholders from receipt of an excavation notification until successful completion of the excavation, as appropriate."

Does the proposed project address this element? (Required) No

Describe any existing state initiatives that support this element: (Required)

The State of Texas has a One Call Board that was created from the Texas Utilities Code, Subchapter B, 251.051. Statutorily known as the Underground Facility Notification Corporation, its responsibility is to oversee the ongoing operation of the statewide One Call toll free telephone number and the requirements for all One Call notifications centers operating in the state. Texas currently has three One Call centers operating in the state and they work to share data between each other as required under the statute. The Corporation facilitates the implementation of Effective Communication through its established notification processes, as well as providing the opportunity for ongoing stakeholder communication at quarterly board meetings. In addition, the Railroad Commission has adopted rules, which allow excavators and operators to establish protocols for an excavation activity (TAC 18.009). The Commission continues to foster this communication between all stakeholders through the implementation of its enforcement program and as more work is done to adopt more of the common ground initiatives.



ELEMENT 2 - COMPREHENSIVE STAKEHOLDER SUPPORT

"A process for fostering and ensuring the support and partnership of stakeholders, including excavators, operators, locators, designers, and local government in all phases of the program."

Does the proposed project address this element? (Required) No

Describe any existing state initiatives that support this element: (Required)

The State of Texas' Underground Notification Center (OCB) through its board meetings serve as an ongoing stakeholder forum. Each of the stakeholder groups is represented on the Board, (pipelines have one representative on the 12 member Board), and each has the opportunity to voice concerns, comments, or suggestions during the quarterly Board meetings. In addition to these Board meetings, working groups or workshops are held to foster this partnership to find ways to improve the one call process in the state. For example, the group has been working to resolve issues such as size of a one call ticket and the life of a one call ticket for several meetings. Much of the data that is prepared during these work group sessions is shared with the Commission as they work to improve and enhance the enforcement program for damages relating to the movement of earth near pipelines continues. The number of common ground partnerships developed through local and regional damage prevention councils continues to increase in Texas. The Commission continues to see growth in this area. Additionally, any rulemaking or enforcement activity at the Railroad Commission is subject to the State's open meetings and open records policies. The Commission continues to seek stakeholder input during the interpretation of rules as was done during the initial development of the damage prevention regulations. The Commission anticipates this will continue in 2010 as a rulemaking effort to address the issues discussed at the one call board meetings, such as size and life of one call tickets begins.



ELEMENT 3 - OPERATOR INTERNAL PERFORMANCE MEASUREMENT

"A process for reviewing the adequacy of a pipeline operator's internal performance measures regarding persons performing locating services and quality assurance programs."

Does the proposed project address this element? (Required) No

Describe any existing state initiatives that support this element: (Required)

Element Three requires a process for reviewing the adequacy of a pipeline operator's internal performance measures regarding persons performing locating services and quality assurance programs. The Commission's pipeline safety program reviews all pipeline operators for compliance with the damage prevention requirements. The Commission anticipates that in the next rule adoption cycle it will create reporting criteria for operators on a strategic planning platform. The Commission's online reporting system was built using the CGA DIRT program as a base of information, so all data collected on the Commission's system is uploaded into the CGA database. The form requires information regarding the marking of pipeline facilities, and based on the data collected, the Commission may be able to make the determination as to what type of training and in what areas the training should be conducted.

The Railroad Commission is also in the process of adding field staff to conduct more onsite field inspections focussing only on damage prevention. The Commission has developed an inspection protocol to assist in its enforcement of the damage prevention regulations in the area of the movement of earth near pipelines.



ELEMENT 4 - EFFECTIVE EMPLOYEE TRAINING

"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."

Does the proposed project address this element? (Required) No

Describe any existing state initiatives that support this element: (Required)

Element Four requires participation by all stakeholders in the development and implementation of effective employee training programs. The Texas Utilities Code has specific language that address the need for the One Call Board to seek "advice and recommendations from excavators in establishing or approving a safety training course." The Commission also has provisions for training under administrative rules that go beyond the requirements of both 49 CFR Parts 192 and 195. Although the Commission's request for funding this year does not address this element, the Commission will work with other stakeholders in the development and implementation of training regarding the state's damage prevention laws found in Chapter 251 as well as the Commission laws and rules. The Commission's training programs have been informally conducted in conjunction with One Call centers and the local highway department to help educate stakeholders in the Commission rules and regulations. The Commission hopes to expand this training to use in its enforcement program.



ELEMENT 5 - PUBLIC EDUCATION

"A process for fostering and ensuring active participation by all stakeholders in public education for damage prevention activities."

Does the proposed project address this element? (Required) No

Describe any existing state initiatives that support this element: (Required)

Public education is one of the most important elements of an effective damage prevention program. As the Commission has found during the first two years of implementation of the damage prevention enforcement program, there are many people that are still unaware of the need to "call before you dig." Texas has had a damage prevention law in place since 1997, but a large number of excavators still are unaware of these laws.



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."

Does the proposed project address this element? (Required) Yes

Describe any existing state initiatives that support this element: (Required)

The majority of the work performed within the Commission's damage prevention section since its creation has been enforcement. In the time period October 2008 through May 2009, 20,198 on-line damage reports were filed in the online system, with 12,914 filed by operators and 7,284 filed by excavators. Also in this same time period, 2,698 dockets went to Commissioners' conference, including 965 for operators and 1,733 for excavators, with a total penalty amount collected of \$651,815.

The Commission developed an online reporting tool for operators and excavators to file their reports of damages to the Commission to assist in the enforcement of the program. The Commission continues to make refinement to the process, but as the data indicates so far, the program has identified some operators and excavators that choose to be repeat offenders. The Commission seeks to address this issue with a new training program.

Describe how the proposed project will enhance or continue implementation of this element: (Required only if proposal addresses this element)

The Commission proposes to develop a training program for educating the underground facility operators, excavators, contractors, and the general public relating to the enforcement activities stemming from third party damage to underground pipeline facilities. The Commission has identified operators that have received an administrative penalty and continue to violate the damage prevention laws, rules, and regulations. With this proposal, the Commission hopes to affect some of the "repeat offenders" by mandating training in the damage prevention laws, rules, and regulations. This training will also serve as a general public awareness and education piece to improve the overall awareness of damage prevention. The Commission received additional funds to hire staff to assist in the damage prevention enforcement program, and proposes to use this grant to help develop and provide materials to distribute to the students in the classes. A large portion of the proposal is for the supplies to distribute in class.



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."

Does the proposed project address this element? (Required) No

Describe any existing state initiatives that support this element: (Required)

The Commission intends to become more involved in learning about and disseminating information to all of the stakeholders as new initiatives are implemented and new technologies become available. Commission staff attend various industry meetings to learn more about new technologies and processes. The Commission will become more involved in sharing the information with all stakeholders. Additionally, the Commission rules will include more best practices in the area of line locating.



ELEMENT 9 - DAMAGE PREVENTION PROGRAM REVIEW

"A process for review and analysis of the effectiveness of each program element, including a means for implementing improvements identified by such program reviews."

Does the proposed project address this element? (Required) No

Describe any existing state initiatives that support this element: (Required)

The Commission is in the early stages of development of a process to review and evaluate the effectiveness of each of the program elements. With the damage prevention enforcement program entering its third year, the Commission is still overwhelmed by the number of damages to pipelines reported in the system. With the increase in staff, the Commission intends to extend this review and analysis from just the enforcement and dispute resolution element into the other elements of an effective program.



Legislative/Regulatory Actions

Provide a description of any legislature or regulatory actions (including legislative/regulatory studies) taken by the State within the past five (5) years pertaining to damage prevention program improvement, even if those actions were not completely successful.

The State of Texas adopted its first damage prevention legislation in 1999 during the 76th Legislative Session. The 79th Texas Legislature (2005) expanded enforcement authority to the Railroad Commission with jurisdiction over the movement of earth near pipeline facilities.



State Damage Prevention Application Attachments

RRC Designation-OsterbergWarren20090818.pdf



SECTION C - NON-FEDERAL RESOURCES					
(a) Grant Program		(b) Applicant	(c) State	(d) Other Sources	(e)TOTALS
8.	State Damage Prevention Program	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
9.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
10.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
11.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
12. TOTAL (sum of lines 8-11)		\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
14. Non-Federal	\$ <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
15. TOTAL (sum of lines 13 and 14)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT					
(a) Grant Program		FUTURE FUNDING PERIODS (YEARS)			
		(b)First	(c) Second	(d) Third	(e) Fourth
16.	State Damage Prevention Program	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
17.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
18.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
19.	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
20. TOTAL (sum of lines 16 - 19)		\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges: <input type="text"/>	22. Indirect Charges: <input type="text"/>
23. Remarks: <input type="text"/>	

Application for Federal Assistance SF-424

Version 02

* 1. Type of Submission:

- ☐ Preapplication
☒ Application
☐ Changed/Corrected Application

* 2. Type of Application:

- ☒ New
☐ Continuation
☐ Revision

* If Revision, select appropriate letter(s):

* Other (Specify)

* 3. Date Received:

08/28/2009

4. Applicant Identifier:

5a. Federal Entity Identifier:

* 5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:

7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name:

RAILROAD COMMISSION OF TEXAS

* b. Employer/Taxpayer Identification Number (EIN/TIN):

74-6000134

* c. Organizational DUNS:

028619182

d. Address:

* Street1:

P. O. Box 12967

Street2:

* City:

Austin

County:

* State:

TX: Texas

Province:

* Country:

USA: UNITED STATES

* Zip / Postal Code:

78711-2967

e. Organizational Unit:

Department Name:

RAILROAD COMMISSION OF TEXAS

Division Name:

Safety Division

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:

Mrs

* First Name:

Mary

Middle Name:

* Last Name:

McDaniel

Suffix:

Title:

Director of Safety Division

Organizational Affiliation:

* Telephone Number:

512-463-7058

Fax Number:

512-463-7319

* Email:

mary.mcdaniel@rrc.state.tx.us

Application for Federal Assistance SF-424

Version 02

9. Type of Applicant 1: Select Applicant Type:

A: State Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

* 10. Name of Federal Agency:

Pipeline & Hazardous Material Safety Administration

11. Catalog of Federal Domestic Assistance Number:

20.720

CFDA Title:

Pipeline Safety

* 12. Funding Opportunity Number:

DTPH56-10-SN-0001

* Title:

State Damage Prevention Grants

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

* 15. Descriptive Title of Applicant's Project:

RAILROAD COMMISSION OF TEXAS State Damage Prevention

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

Application for Federal Assistance SF-424

Version 02

*** Applicant Federal Debt Delinquency Explanation**

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.

CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* APPLICANT'S ORGANIZATION

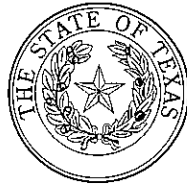
RAILROAD COMMISSION OF TEXAS

* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Prefix: Mrs. * First Name: Denise Middle Name:
* Last Name: Hudson Suffix:
* Title: Deputy Executive Director

* SIGNATURE: Mary McDaniel

* DATE: 08/28/2009



OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

August 18, 2009

Mr. Warren D. Osterberg
Contracting Officer
Pipeline and Hazardous Materials Safety Administration
Office of Contracts and Procurement (PHA-30)
U.S. Department of Transportation (DOT)
1200 New Jersey Avenue, SE, E22-228
Washington, D.C. 20590

Dear Mr. Osterberg:

I am pleased to designate the Railroad Commission of Texas (RRC) as the state authority eligible to receive a State Damage Prevention Program Grant from the DOT, Pipeline and Hazardous Materials Safety Administration during calendar year 2010 under solicitation DTPH56-10-SN-0001.

RRC is a certified agent of DOT for the enforcement of federal pipeline safety regulations for intrastate pipeline facilities pursuant to the federal Pipeline Safety Act, and has safety jurisdiction for more than 150,000 miles of intrastate pipelines that transport natural gas, crude oil and refined products across our state. This grant will allow RRC to improve the overall quality and effectiveness of its program to prevent damage to underground pipeline facilities throughout Texas.

If you have any questions regarding this grant application or need additional information, please contact Colleen Forrest with RRC at (512) 463-2645.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is fluid and cursive, with the first letters of "Rick" and "Perry" being capitalized and prominent.
Rick Perry
Governor

RP:dfp

cc: Ms. Denise Hudson, Deputy Executive Director, Railroad Commission of Texas