



## CHAPTER 22

# SOURCES OF MATERIALS

### 22-1 Notification of Source of Supply and Materials

Section 00160.01 requires the Contractor to notify the Resident Engineer (RE) of their proposed Material sources of supply, including any steel or other fabricators, within the following time frames:

- At least 15 Calendar Days before using or fabricating Materials, if the source is within the state, or
- At least 45 Calendar Days before using or fabricating Materials, if the source is outside the state.

There are several reasons for this requirement, including:

- For aggregate sources, it allows the RE to assure that compliance testing is performed or that source compliance tests is current and acceptable.
- For prospective sources of Material, it makes the Agency aware of the source's availability for other projects.
- For steel and other fabricated material, it allows the Agency to plan needed inspections.

For sources of aggregates and other Materials, the Contractor must secure all needed permits other than those that are the Agency's responsibility. [Refer to Chapter 21 – Permits.] When requested by the RE, the Contractor must produce the required permits for review. The Contractor must also comply with all laws and ordinances that apply to its operations at Material sources.

## 22-2 Prospective Source / Mandatory Source

The Special Provisions may list, or the Plans may show, borrow pits or aggregate sources from which the Contractor may, or shall, obtain Materials. These sources will be identified as either prospective or mandatory.

A **prospective source** is an Agency-furnished Materials source which the Contractor has the option of using if they wish. The prospective source will be listed in the Special Provisions. If the Contractor chooses to use Materials from a prospective source, they must notify the RE in writing of the option selected within 15 Calendar Days from date of Notice to Proceed. This notification will "hold" the source for the Contractor; otherwise the Materials sources may become unavailable.

A **mandatory source** is an Agency-furnished Materials source which the Contractor is required to use. Mandatory sources will be identified in the Special Provisions.

When the Agency has offered a mandatory Material source, the RE must:

- Assure that the required permits are in place from the owner and regulatory agencies for extraction of Materials.
- Assure that quality control and assurance testing is current, and that the Material is acceptable for use.
- Assure that all applicable royalties are collected and paid.
- Assure that the Contractor is knowledgeable about their responsibilities and the frequencies of testing that they must perform, as well as the reports that they must provide to the RE.
- Assure that Agency personnel will perform the needed inspection, compliance testing, and verification testing.
- Must assure that the Contractor is aware of the quality documentation and certification requirements.

For all other Material sources, the RE:

- Must assure that the Contractor is knowledgeable about their responsibilities and the frequencies of testing that they must perform, as well as the reports that they must provide to the RE.
- Must assure that Agency personnel will perform the needed inspection, compliance testing, and verification testing.
- Must assure that the Contractor is aware of the quality documentation and certification requirements.
- Must assure that the Contractor has secured the permits needed for their operations in the Material source.

## **22-3 Agency-Furnished Materials and Sources**

The locations at which Agency-furnished Materials are available will be specified in the Special Provisions, or, if not specified, will be furnished to the Contractor at the Project Site. The Contractor is still required to pay all handling, hauling and unloading costs, which are reimbursed under the bid item for involving the Materials.

If a prospective or mandatory source is identified in the Special Provisions, a development plan will be included in Section 00235. If the Contractor chooses to work in a different area of the Materials source than shown on the development plan, the Contractor must submit a request to the RE identifying the reason for the change, as well as obtaining all required land use permits, updated development plans, or reclamation plans. Any required permits and plans must be submitted to the RE and approved before the Contractor begins work in any area other than that shown on the development plan.

## **22-4 Contractor-Furnished Materials and Sources**

If a mandatory source is not identified in the Special Provisions, the Contractor can choose their own source for all products and Materials needed for the Project.

Except for continuously-operated commercial sources, the Contractor must provide the following to the RE before any Work can begin or any Materials from the source can be accepted:

- Provided the RE with a copy of all required permits, or proof that permits are not required from the entities identified in 00160.60(c)(1).
- Provided the RE with written approval from any property owners for the Contractors proposed operation in, and reclamation of, the source.
- Unless the Contractor uses their own forces to mine and crush aggregate Material, a subcontract must be submitted according to 00180.21.

## **22-5 Buy America**

If the Project contains any federal highway funds, the Contract will contain the Federal Buy America provisions defined in Section 00160.20. The Buy America provisions require that all iron or steel manufacturing processes shall occur in the United States. The Contractor must limit the quantity of foreign iron or steel Materials to no more than one-tenth of one percent (0.1%) of the final Contract amount, or \$2,500, whichever is greater. Any foreign Materials incorporated in excess of this amount must be removed and replaced with domestic iron or steel Materials.

Iron or steel manufacturing processes include, without limitation, the application of coatings to finished iron or steel products or components. Coatings include epoxy coating, galvanizing, painting, and any other coating that protects or enhances the value of the steel or iron product or component.

The Contractor must provide the RE with a Certificate of Materials Origin (CMO), form 734-2126, before incorporating any iron or steel Materials into the Project. If a CMO shows the origin of materials is unknown, the Materials are considered to be foreign.

Buy America waivers must be obtained during the project development phase, and only if it is within the public interest, or when satisfactory quality domestic steel or iron products are not sufficiently available. If a Buy America waiver is required during the construction phase, it must be processed through FHWA Headquarters in Washington DC. Effective March 13, 2008, the Regional FHWA Administrators can no longer approve Buy America Waivers. The March 13, 2008 FHWA memorandum defining the revised Buy America waiver policy is available at:

<https://www.fhwa.dot.gov/construction/contracts/080313.cfm>

For more information on the Buy America requirements, refer to Chapter 12B – Quality, and the FHWA website at:

<https://www.fhwa.dot.gov/construction/cqit/buyam.cfm>

## **22-6 Agency Inspection of Materials**

When steel and other fabricated Materials must be inspected during the fabrication process, the RE must assure that the inspection will be done. The inspection is done in one of the following ways:

- The Structure Services Unit of the ODOT Construction Section has inspectors in the Portland and Eugene areas. Contact the Structure Services Engineer in the ODOT Construction Section to schedule inspections of fabricated Materials.
- When Materials are fabricated at a location more than 50 airline miles outside of Oregon, the Structure Services Engineer will send an inspector to perform the inspection or may engage inspectors from other states, local jurisdictions, or a consultant to perform the inspection services. The RE must assess an adjustment for the extra costs involved, as specified in 00165.91, and in Chapter 12E – Adjustments to Lump Sum & Other Items.