

## CHAPTER 33 – MATERIALS LEFT OVER OR PRODUCED FOR A THIRD PARTY

### 33-1 MATERIALS LEFT OVER

Section 00195.80 addresses Materials that have been ordered or produced, but are left unused due to changes in the Contract.

As stated in *Chapter 23 - Quantities of Materials to Be Produced*, both the PM and the Contractor must independently verify the quantity of Materials that will be needed to perform the Project Work.

The Contractor should anticipate a reasonable fluctuation in Project quantities due to variations in specific gravities, variations in normal production, and construction. The Agency is not responsible for purchasing left over Materials due to these fluctuations.

However, if Materials are left over due to changes in the Contract, The Agency may take one (1) of the following actions:

1. Have the Contractor or Supplier retain and restock the Material. Pay any restocking charges incurred by the Contractor, plus 5%. This is generally the preferred method, unless the Agency has use for the Material; or
2. Purchase the Material at cost plus 5% markup as specified in Section 00195.80. Typically, such purchases will be born by the Agency and not considered to be FHWA participating.

If the Agency must purchase the Material, the PM must dispose of the Materials in one (1) of the following methods:

1. If the Materials require special handling and disposal, or are classified as hazardous Materials, the PM should arrange for and pay the Contractor to properly dispose of the Materials; or
2. Give the Material to ODOT Maintenance. The PM should work with the District Manager to resolve any transportation and storage issues.

### 33-2 MATERIALS PRODUCED FOR A THIRD PARTY

When Materials are produced under the Contract for Maintenance or another third party, Maintenance or the third party must reimburse the Project for the cost of the Materials and other costs, such as engineering and mobilization, attributable to the production of the Materials.

When the production of the Materials is complete, and the Materials are available to Maintenance or the third party, the PM must:

1. Calculate the quantities and value of the Materials, including the cost of engineering, mobilization, and other appropriate costs.
2. If the Material is to be transferred to Maintenance, convey the information on quantities and value to the District Manager. Assure that costs are credited to the Project through a Journal Entry or the CPS System.
3. If the Material is to be transferred to a third party, convey the information on quantities and value to the appropriate third party person. Assure that the Project is paid or credited for the cost of Material.

The PM must assure:

- That ownership of the Material is transferred to the appropriate party;
- That the Project has been credited for the value and other costs associated with the Material; and
- That FHWA participation has not been requested for the value or other costs associated with the Material, unless FHWA agrees to participate in the cost.

Excess Material should be stored or placed on property that is under Agency control or on property controlled by the appropriate third party. If the Material cannot be stored on Agency-controlled property, or that of the appropriate third party, the Material must be stored properly and in a manner that provides access to the Agency or the appropriate third party in order to remove the Material.