

## **Materials Left Over or Produced for a Third Party**

### Materials Left Over

Section 00195.80 addresses materials that have been ordered or produced for the work, but are left unused due to changes in plans or elimination of work.

As stated under the Quantities of Materials to Be Produced section (23) of this Manual, both the Project Manager and the Contractor need to independently verify the quantity of materials that will be needed to perform the project work. This will minimize the problem of over or under-production and will reduce the amount of materials that are left over at the end of a project.

The Contractor should anticipate a reasonable fluctuation in project quantities due to variations in specific gravities and variations in normal production and construction. ODOT is not responsible for purchasing any leftover materials due to these reasonable fluctuations.

If materials are left over due to changes in plans or to elimination of work (which indicates that ODOT is responsible for the left over material), ODOT may take one 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 ODOT has use for the material.
2. Purchase the material at cost plus 5% markup as specified in 00195.80. If this is done, ODOT must dispose of the materials as discussed below.

If ODOT must purchase the material, the Project Manager must dispose of the materials in one of the following methods:

1. If Maintenance or another public agency has use for the material and wishes to purchase the material, it may purchase the material from the project at its value (cost plus the 5% markup). If it is sold or transferred to Maintenance, the Project Manager must work with the District Manager to process a Journal Entry to transfer the value of the material. In this instance, FHWA will not participate in any costs.
2. If the leftover material is of sufficient quantity and will be of use for a specific nearby project within the next couple of years, the Project Manager, upon approval of Region, must process a Journal Entry to transfer the value of the material to a holding account for the future project. FHWA will not participate in those costs except that, if the future project involves Federal-Aid funds, participation may be approved at that time.

3. If neither of the above situations exists and ODOT must purchase leftover material, the Project Manager should contact the Support Services Section's Surplus Property Manager to determine if the materials should be declared surplus and disposed of according to the Surplus Property procedures. FHWA may participate in costs not recovered from sale of the materials, for just cause.
4. If Maintenance or another public agency does not have use for the leftover material and it is not suitable to be sold under the Surplus Property Program, the Project Manager must work with and pay the Contractor to dispose of the materials. FHWA may participate in those costs, for just cause.

#### 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 contract 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 Project Manager 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 and assure that the Journal Entry is done to credit the project for the cost of the material and to charge Maintenance for the material.
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 and assure that the project is paid or credited for the cost of material.

The Project Manager must assure:

- That ownership of the materials is transferred to the appropriate party
- That the project has been credited for the value and other costs associated with the material
- 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 for just cause

If the material is stored on property that is not under the control of ODOT or the appropriate third party, the Project Manager must assure that ODOT or the third party has access to the material site in order to remove the material.