

DB Section 160 - Source of Materials

DB160.01 Notification of Source of Supply and Materials

(a) All Materials - Design-Builder shall notify Agency in writing of all proposed Materials sources of supply, including without limitation any steel or other fabricators, within the following time frames:

(1) At least 15 Calendar Days before using or fabricating Materials, if the source is within the State; or

(2) At least 45 Calendar Days before using or fabricating Materials, if the source is outside the State

(b) Prospective Source Materials - When given an option to use Prospective Sources of Materials to be incorporated into the Project, Design-Builder shall notify Agency in writing of the option selected within 15 Calendar Days from date of NTP. Otherwise, such Materials sources may become unavailable.

(c) Review and Comment - Before allowing production or delivery of Materials to begin from any source, Design-Builder must obtain Agency's Review and Comment. If reviewed sources do not provide Materials that meet all Contract requirements, the Materials will be rejected. Design-Builder will then be responsible for locating other sources and obtaining Agency's review of those sources.

DB160.05 Qualified Products List - The Qualified Products List (QPL) is a listing of manufactured products available on the market (shelf items) that Agency has evaluated and found suitable for a specified use in Highway construction. The QPL is updated periodically and is available electronically at Agency's website <http://www.oregon.gov/ODOT/HWY/CONSTRUCTION/QPL/QPIndex.shtml>.

The most current published version of the QPL in effect at the time the Materials are incorporated into the Project shall be used. Agency may approve for use a conditionally-qualified product, or a product qualified for inclusion in a later edition of the QPL, if Agency finds the product acceptable for use on the Project.

Use of listed products shall be restricted to the category of use for which they are listed. Design-Builder shall install all products as recommended by the manufacturer. Design-Builder shall replace qualified products not conforming to all Contract requirements or not properly handled or installed at Design-Builder's expense.

DB160.20 Preferences for Materials

(a) Buy America – If federal Highway funds are involved on the Project, Design-Builder shall limit the quantity of foreign Materials incorporated into the Project as follows. 23 CFR 635.410 and the Intermodal Surface Transportation Efficiency Act (ISTEA) require that all

DB 160.20(a)

iron or steel manufacturing processes, including without limitation the casting of ingots, for iron or steel Materials permanently incorporated into the Project shall occur in the United States (US), unless the cost of foreign-origin iron or steel Materials does not exceed 0.1% of the Contract Amount or \$2,500.00, whichever is greater. Design-Builder shall not incorporate foreign-origin iron or steel Materials in excess of this amount into the Project. All foreign-origin iron or steel Materials incorporated into the Project in excess of the amount indicated above shall be removed and replaced with domestic iron or steel Materials at Design-Builder's expense. For purposes of this Subsection, the cost of foreign-origin iron or steel Materials shall be the value of the iron or steel products as of the date they are delivered to the Project Site.

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.

Design-Builder shall obtain and maintain on file a Certificate of Materials Origin on a form furnished by Agency before incorporating any iron or steel products into the Project. Unless a Certificate of Materials Origin has been provided to Agency, the Materials shall be considered of foreign origin.

Design-Builder shall retain manufacturers' certificates verifying the origin of all domestic iron or steel Materials for three (3) years after the date of final payment for the Project and shall furnish to Agency with final documentation.

(b) Buy Oregon - Pursuant to ORS 279A.120, Design-Builder shall give preference to goods or services produced in Oregon if price, fitness, availability, and quality are equal. This provision does not apply to contracts financed wholly or in part by federal funds.

(c) Recycled Materials - Pursuant to ORS 279A.125, and subject to the approval of Agency, Design-Builder shall use recycled products to the maximum extent economically feasible.

DB160.30 Agency-Furnished Materials - Unless otherwise specified in the Contract Documents, Materials listed as Agency-furnished will be available to Design-Builder free of charge.

Design-Builder shall be responsible for all Materials furnished by Agency, and shall pay all demurrage and storage charges. Design-Builder shall replace at its expense Agency-furnished Materials lost or damaged due to any cause.

The locations at which Agency-furnished Materials are available will be designated in **DB Special Provisions**, SP160.30. If the locations are not listed in SP160.30, Agency-furnished Materials will be furnished to Design-Builder at the Project Site. In either case, all costs of handling, hauling, unloading, and placing Agency-furnished Material shall be considered included in the Contract Amount.

All Agency-furnished Materials not incorporated into the Project remains the property of Agency. Design-Builder shall deliver such Materials as directed by Agency.

DB160.40 Agency-Furnished Sources - Design-Builder shall contact Agency PM for information regarding possible local Aggregate Materials sites. Agency may list in **DB Special Provisions**, SP 160.40, borrow pits or aggregate sources from which Design-Builder may, or shall, obtain Materials. These sources will be identified and referred to as Prospective or Mandatory Sources. Design-Builder shall prepare and deliver to Agency PM a Material Source Development and Reclamation Plan for each Prospective and Mandatory Source to be used.

(a) Working in a Different Area of the Materials Source – If Design-Builder desires to work in a different area of the Materials source than that shown on the Material Source Development and Reclamation Plan, Design-Builder shall submit a written request to Agency PM stating the reasons for the requested change. If a new land use permit or new Material Source Development and Reclamation Plan is needed, Design-Builder shall submit the new Material Source Development and Reclamation Plan and obtain approval of the new plan from Agency PM before starting work in any area other than that shown on original the Material Source Development and Reclamation Plan. Approval for work in a different area will not entitle Design-Builder to any added compensation or adjustment of Contract Time.

(b) Cost of Sources - Unless otherwise specified in the **DB Special Provisions**, Prospective and Mandatory Sources will be provided by Agency for use without payment of royalty or other charge.

(c) Exhaustion of Sources - If Agency determines that the quantities of specified Materials that can be produced from a Mandatory Source are insufficient for the Work, and it becomes necessary to move to another source, Agency will pay for the reasonable cost of moving the plant to, and erecting it at, a new approved source from which specified Materials can be produced.

No allowance, reimbursement, compensation, or adjustment will be made for changes in the use of sources, or for moving from one source to another, except as provided above.

DB160.50 Agency-Controlled Land; Limitations and Requirements

(a) General - Design-Builder shall have no property rights in, or right of occupancy on, Agency-Controlled Lands. Nor shall Design-Builder have the right to sell, use, remove, or otherwise dispose of any material from Agency-Controlled Lands, except upon the written authorization of Agency.

Design-Builder shall not disturb any materials within Rights of Way without written authorization from Agency.

Ownership of all materials originating on Agency-Controlled Lands will at all times vest in, and remain the property of, Agency.

(b) By-Products - By-Products shall remain Agency property. Unless otherwise ordered by Agency in writing, By-Products shall be placed as follows, as required by the Materials Source Development and Reclamation Plan:

- (1)** In stockpiles at designated locations;

DB 160.50(b)(2)

(2) At locations and in shapes that are readily accessible; and

(3) In such a manner as to avoid fouling areas containing useable materials or interfering with future plant setups to use materials from the property.

Agency will not compensate Design-Builder for handling and stockpiling By-Products in accordance with the Materials Source Development and Reclamation Plan requirements. If by written order Agency directs Design-Builder to stockpile or place designated By-Products at alternate sites, the By-Products designated shall be loaded, hauled, and placed as directed, and such Work will be paid for as Extra Work.

DB160.60 Design-Builder-Furnished Materials and Sources

(a) **General** - Design-Builder shall furnish, at its own expense, all products and Materials required for the Project from sources of its own choosing, unless Prospective or Mandatory Sources have been designated in the **DB Special Provisions**.

(b) **Acquisition of Sources** - Design-Builder shall acquire, at its own expense, the right of access to, and the use of, all sources Design-Builder chooses that are not Agency-controlled and made available by Agency to Design-Builder.

(c) **Additional Requirements** - Except for continuously-operated commercial sources, Material source development Work shall not begin, nor will any Materials be authorized for incorporation into the Project by Agency, until Design-Builder has done the following:

(1) Delivered to Agency PM a copy of permits from, or proof that permits are not required from, any of the following:

- a. The Department of Geology and Mineral Industries;
- b. The Division of State Lands (when removing material from the bed or banks of any waters or from any Wetland); or
- c. Local Authorities.

(2) Delivered to Agency written approval of the property owner, if other than Design-Builder, for Design-Builder's proposed plans of operation in, and reclamation of, the source. Design-Builder shall include in the document containing the property owner's written approval a summary of the requirements of the permits described above, which shall be subject to Agency's Review and Comment.

DB160.70 Requirements for Plant Operations - Before operating mixing plants, rock crushers, or other Equipment, Design-Builder shall provide Agency copies of all applicable discharge permits for noise, air contaminants, and water pollutants from the Oregon Department of Environmental Quality (DEQ) or applicable local Authority, or a letter from the DEQ or local Authority stating that no permits are required for the use of the Equipment and sites.

DB160.80 Requirements for Sources of Borrow and Aggregate - Design-Builder shall conduct operations according to all applicable Laws (including without limitation ORS Chapter 517 and OAR Chapter 632, Division 30) when developing, using, and reclaiming all sources of Borrow material and Aggregate. Design-Builder shall provide erosion control at Borrow sources that are not within the Project Site. Design-Builder shall not operate in Wetlands except as allowed by permit. Design-Builder shall comply with all requirements for pollution and sediment control, including without limitation the National Pollutant Discharge Elimination System (NPDES), where applicable.

Except for continuously-operated commercial sources, Design-Builder shall also conform to the following:

(a) If a natural growth of trees or shrubs is present, Design-Builder shall preserve a border of such to conceal land scars.

(b) Design-Builder shall excavate Borrow sources and Aggregate sources, except for those in streams and rivers, to provide the following:

(1) Reasonably uniform depths and widths.

(2) Natural drainage so no water stands or collects in excavated areas, when practicable.

(3) Slopes trimmed to blend with the adjacent terrain upon completion of operations.

(4) Slopes covered with native soil, or acceptable plant rejects to support plant growth, if required by Contract Specifications, Plans, or permits.

(5) A vegetative cover that blends with the adjacent natural growth.

(c) Design-Builder shall excavate in quarries so that the following requirements are met:

(1) Faces will not be steeper than vertical (no overhang).

(2) Vertical faces conform to Oregon Occupational Safety and Health Division of the Department of Consumer and Business Services (OR-OSHA) Standards, Division 3, and as shown on an approved development Plan.

(3) Floors or benches are excavated to a uniform slope free of depressions and will drain and not interfere with the downland owner's property.

(4) Upon completion, the quarry is left appearing neat and compatible with surrounding terrain.

(d) Design-Builder shall obliterate haul roads specifically built for access to sources and restore the areas disturbed by these roads as nearly as practicable to the conditions that existed before the roads were built, unless otherwise directed by the landowner or applicable Authority.

