

Prospective versus Mandatory

Prior to the designation of a source as either “**prospective**” or “**mandatory**,” it is important to understand why ODOT offers any material source for a project.

ODOT has developed several documents that attempt to explain this issue and various other aspects of the ODOT Material Source Program. The following documents have been developed and are available on the [ODOT Material Source web site](#): *ODOT’s Material Source Network*, *Justification for offering ODOT Material Sources* and *Royalties & ODOT Sources*. To gain a better understanding of the various aspects of the ODOT Material Source Program please review these documents. In summary, getting the best roadway maintenance or improvement project value for the lowest cost is the primary objective for justifying ODOT owned or controlled sources of aggregate materials.

To achieve the above objective, ODOT applies the following criteria related to sources of material when scoping a project:

1. Does the project’s material needs (quantity and quality) or location warrant ODOT offering a material source? In other words, does the project design require a large enough volume of a certain quality of material that the cost of source development is justified? And / or is the project located in an area without alternative sources of material?
2. Is a viable ODOT owned or controlled source available to meet the project needs?

If the project warrants a source of materials and a public source is available, ODOT then determines if the offered source should be designated as “**prospective**” or “**mandatory**.”

The following definitions appear in **Section 00110.20 Definitions** section of the [2008 Oregon Standard Specifications for Construction](#).

- **Prospective Source** – A material source provided by the Agency, from which the Contractor has the option of obtaining Materials. (see 00160.00(a) and 00160.40)
- **Mandatory Source** – A material source provided by the Agency from which the Contractor is required to obtain Materials. (see 00160.00(b) and 00160.40)

For ODOT contracts the preference is to offer material sources as “**prospective**.” By offering prospective sources ODOT allows all Contractors bidding the project to examine environmentally cleared and permitted sites with proven quantity and quality of material, and either prepare their bids based on the ODOT development plan and operating specifications designed for the source(s) being offered, or bid based on obtaining materials elsewhere. When offering a source as prospective, ODOT does not require a Contractor to utilize the ODOT source.

It is ODOT practice to use the “**mandatory**” designation only in very specific circumstances. By designating a mandatory source, ODOT allows all Contractors bidding the project to examine an environmentally cleared and permitted site when preparing their bids based on the ODOT development plan and operating specifications for the source that is provided. By specifying a source as mandatory, ODOT does require a Contractor to utilize the source for the project. On projects with federal funding, a mandatory designation requires ODOT to prepare and submit to FHWA for approval a justification showing the benefits to the public in the form of a “Letter of Public Interest Findings.”

Following is a list of examples of when a mandatory source designation may be justified.

1. ODOT has identified a need to utilize a source to make use of existing stockpiled ODOT material available in a site.
2. ODOT has justification to utilize the remaining resource and to deplete the site prior to full and final reclamation.
3. ODOT has identified a need to establish use or continued use of a site to maintain federal easements or to meet local land use stipulations.
4. A site contains a specific type of material (color, hardness, chemical properties, etc.) that is unavailable from other sources, or from sources within a reasonable distance.
5. The use of excess excavation material from a construction project on the same project or another project, reducing or eliminating the need for its disposal.
6. ODOT justifies the identification of a certain source for environmental, political or logistical reasons.

In summary, if it is determined that a material source is warranted for a project, ODOT usually offers the source of material as “**prospective**.” This designation generally increases the number of bidders by allowing all Contractors the greatest degree of flexibility to find the source that meets both the project’s needs, the Contractor’s specific operational requirements, and from the contractor’s point of view, is the most cost effective.

The “**mandatory**” designation should only be used when ODOT has determined that there are specific and special circumstances with a project or associated source. By designating a mandatory source ODOT requires that all interested contractors base their bids on the use of that source, and eliminates the option for a contractor to obtain material from another source for the project.