

**SECTION 106  
CONTROL OF MATERIAL**

**106-1.02 MATERIAL SOURCES.**

*DELETE Subsection 106-1.02.4.a Contractor-Furnished Sources and Replace with the following:*

- a. Contractor-Furnished Sources. For a material source that is a Commercial Plant as defined in Subsection 108-1.01.4.a, the Contractor shall:
- (1) acquire the necessary rights and permits to obtain material from a commercial plant;
  - (2) pay as subsidiary costs all related costs to obtain and use material from the source; and
  - (3) be solely responsible for the quality and quantity of materials.
- For all Contractor-Furnished sources that are not a commercial plant, the Contractor shall:
- (4) Acquire the necessary rights and permits to take materials from the sources including State owned sources that are not under the Department's control;
  - (5) Pay as subsidiary:
    - i. all related costs to obtain, develop, and use the sources, including but not limited to permit and mineral royalties;
    - ii. the material costs identified in the Material Sales Agreement you obtain for State owned sources where an existing or draft Material Sales Agreement is not included in the contract; and
    - iii. the material costs identified in the Material Sales Agreement for material obtained from State owned sources for which an existing or draft Material Sales Agreement is included in the contract;
  - (6) Be solely responsible for quality and quantity of materials; and
  - (7) Obtain all necessary rights, permits, and plan approvals before clearing or disturbing the ground in the material source. The contractor shall certify in writing to the Engineer that all permits and clearances relating to the use of the material source have been obtained prior to any clearing or ground disturbance in the materials source.

No equitable adjustment or other compensation will be made for any additional costs, including increased length of haul, if the Contractor:

- (8) Chooses to change material sources for any reason;
- (9) Is unable to produce a sufficient quantity or quality of materials from Contractor-Furnished sources; or
- (10) Encounters unexpected, unforeseen, or unusual conditions within Contractor-Furnished sources.

*DELETE Subsection 106-1.02.4.e. Excluded Material Sources in its entirety and REPLACE with:*

e. Excluded Material Sources. Department owned, managed, or permitted material sources not identified in the Contract are excluded from use on the project. This exclusion does not prohibit the Contractor from considering material sources as provided for in 106-1.02(4.)a.) Contractor-Furnished Sources, unless the Contract specifically identifies a source as an Excluded Material Source, nor does it prevent post-award consideration of other material sources as provided under Subsection 104-1.06.