



CHAPTER 31

PROTECTION OF WORK/ RESPONSIBILITY FOR DAMAGES

31-1 Responsibility for Damage to Work Caused by Public Traffic

The Contractor is responsible for all Work, Equipment and Materials, and for repairing all damages caused by Public Traffic to the Work performed until the entire Project has been completed and accepted by the Agency, unless the Agency has accepted responsibility for a portion of the completed Work.

If completed portions of Work meet all of the following conditions, the Contractor may apply for relief of responsibility for damage caused by Public Traffic:

- The completed portions of Work are completed according to CCOs, the Contract Plans or approved stage construction Plans (if included in the Contract).
- The traffic control complies with approved Traffic Control Plan.
- All required Materials conformance and quality compliance documents related to the completed Work are on file with the Resident Engineer (RE).

The Agency can only consider and assume responsibility for the following portions of Work:

- A segment of Roadway, drainage facilities, slopes, lighting, traffic control devices and access facilities.
- A bridge or other structure within a segment of Roadway.
- Traffic signals and appurtenances at an intersection. (Only after signals are turned-on and operating according to 00990.70(h).)
- Permanent, passive traffic control devices.
- Complete circuits of a highway lighting system. (Only after completion of the 14-day burn test according to 00970.70.)
- Portions of a building open to public use.

A. Contractor's Request for Relief of Responsibility, form 734-2768

To apply for relief, the Contractor must submit a signed Contractor's Request for Relief of Responsibility, form 734-2768 to the RE. The Contractor will complete Boxes #1 – #11, and #15 - #17. The Request for Relief of Responsibility form will describe the specific Work for which the relief is being requested.

- Boxes # 1 - #7 – These boxes contain the specific Project information.
- Box #8 - Bid Item Number - This will be the bid item(s) related to the completed portion(s) of Work.

EXAMPLE: If the Contractor is asking for relief of Work related to guardrail installation, multiple bid items covering the guardrail, posts and blocks, transitions, end pieces, etc. would be listed in this box. If the relief is being requested for installed delineators, then there would only be one bid item listed.

- Box #9 – Unit – This will be the pay unit for the applicable bid item(s):
 - Lump Sum: If the bid item pay unit is "lump sum", then 100% of the bid item must be completed before relief can be requested.
 - Each: If the bid item pay unit is "each", then the unit must be 100% complete before it can be included in the request. For example, if a manhole bid item has a pay unit of "each", then 100% of the manhole bid item work must be completed. No percentage can be withheld for missing documentation or incomplete Work.
 - Foot: If the bid item pay unit is "foot", then each foot of completed Work may be included in the request for relief. For example: A bid item quantity of Guardrail, Type

- 2 is 2500 ft. Typically, a full run of guardrail would be completed before the request for relief would be granted. However, in some instances where the run is extremely long, the Contractor could request, and the RE could grant, relief of responsibility for smaller segments of installed guardrail if the installation of that segment is complete and meets all the requirements of 00170.80(c).
- SQFT: If the bid item pay unit is "sqft", then the entire unit being measured must be complete. For example, if the bid item is Type "G" Signs in Place, and the pay unit is sqft, then each sign installation must be 100% complete before the item is included in the relief request.
 - Combined: If relief is being requested for a Bridge or Structure, or a segment of Roadway which contains multiple bid items and multiple pay units, enter "combined."
- Box #10 – Percent or Quantity Completed – Enter the percent complete for the applicable Work (this must be 100% if the pay unit is "lump sum"), or the quantity of work completed (each, foot, etc.).
 - Box #11 – Description of bid item or portion of Work – This section will describe the Work for which the Contractor is requesting relief. A detailed scope of Work, including the beginning and ending milepoints or stations, plan sheet and note numbers, etc. needs to be included to clearly identify the limits of the Work.
 - Box #15 - #17 – These boxes will contain the Contractor's representatives' printed name, signature, title, date the request form is signed, and the date and method of submittal to the RE.

Within seven Calendar Days after the RE receives the Contractor's Request for Relief of Responsibility form, the RE will complete Boxes #12 - #14 and #18 – #23:

- Box #12 – #13 – "Approved" or "Denied" - The RE must review each item of Work for which the Contractor is requesting relief, and indicate whether the item is "Approved" or "Denied". There may be instances where some of the Work items are approved, and other items are denied.
- Box #14 – Reason for Denial - For any Work items that are denied, the specific reason for denial must be included. Be specific so the Contractor can tell what correction(s) are required before relief of responsibility needs can be granted for the Work.
- Box #18 – Date Request Received - Enter the date the Contractor's Request for Relief of Responsibility, form 734-2768 is received in the RE office.

- Box #19 – Request Reviewed By - Enter the name of the RE or RE staff member responsible for reviewing the request.
- Box #20 – Project Manager Signature – The RE will sign the form in this box.
- Box #21 – Date – This will be the date the form is signed by the RE.
- Box #22 – Date Returned to Contractor/By: - Enter the date the form is returned to the Contractor, and the method by which it is sent.
- Box #23 – Comments – Enter any relative comments.

The RE must review, complete the Agency's portion of the form, and return the form to the Contractor within seven Calendar Days of receipt. The Contractor can submit a maximum of two Contractor's Request for Relief of Responsibility, form 734-2768, forms per month, per Project.

Example of completed form 734-2768:

Contractor's Request for Relief of Responsibility from Damage by Public Traffic				Standard Specification Section 00170.80		Print Form	
Project Name (Section) CONSTRUCTION MANUAL FORM EXAMPLE				Contract No. C12345			
Highway Main Highway				County Malheur		Federal Aid No. X-STP-5001(2)	
Project Manager Rhoda Head, PM				Contractor PRIME CONSTRUCTION COMPANY			
CONTRACTOR: Provide the following information for all completed portion(s) of work for which relief of responsibility for damage by public traffic is being requested.				For Agency Use Only			
Bid Item Number	Unit	Quantity Completed	Description and station or location of bid item or portion(s) of work completed. Include plan sheet and note number.	Approved	Denied	Reason for Denial	
1	0042	LF	1,295		<input checked="" type="checkbox"/>	Missing quality documentation and CMO's for Guard	
2	0043	LF	1,009	<input checked="" type="checkbox"/>	<input type="checkbox"/>	All documentation on file. Final inspection 6-14-11	
3	0056	Foot	23,250	<input checked="" type="checkbox"/>	<input type="checkbox"/>	All documentation and Warranty on file.	
4				<input type="checkbox"/>	<input type="checkbox"/>		
5				<input type="checkbox"/>	<input type="checkbox"/>		
6				<input type="checkbox"/>	<input type="checkbox"/>		
7				<input type="checkbox"/>	<input type="checkbox"/>		
8				<input type="checkbox"/>	<input type="checkbox"/>		
9				<input type="checkbox"/>	<input type="checkbox"/>		
10				<input type="checkbox"/>	<input type="checkbox"/>		
11				<input type="checkbox"/>	<input type="checkbox"/>		
12				<input type="checkbox"/>	<input type="checkbox"/>		
13				<input type="checkbox"/>	<input type="checkbox"/>		
14				<input type="checkbox"/>	<input type="checkbox"/>		
15				<input type="checkbox"/>	<input type="checkbox"/>		
Date Submitted to ODOT 6-2-10 <input type="checkbox"/> by Fax <input type="checkbox"/> by Mail <input checked="" type="checkbox"/> by Other <input type="checkbox"/> hand delivered				Date Request Received 6-2-10 Request Reviewed by Sam Sneed, Inspector			
Contractor's Signature <i>Harold P. Stanton</i> Date 6-2-10				Project Manager's Signature <i>Rhoda Head, PM</i> Date 6-2-10			
Printed Name Harold P. Stanton Title Project Superintendent				Date Returned to Contractor 6-3-10 <input type="checkbox"/> by Fax <input type="checkbox"/> by Mail <input checked="" type="checkbox"/> by Other <input type="checkbox"/> Hand Deliv			
Comments Agency requesting Contractor resubmit request for BI 0042 after all required quality documentation has been submitted. This is the first request submitted for the month of June, 2010							

B. Repair of Work Damaged by Public Traffic

When the Agency assumes responsibility for damage to completed portions of the Work, and that Work is damaged by Public Traffic, the damage will be repaired in one of the following ways:

- The Contractor on an Extra Work basis,
 - Agency forces, or
 - By other means as determined by the RE.
1. If the damage occurs before Final Inspection and the RE requests the Contractor to repair the damage, the Contractor will complete the Work on a Force Account basis according to Section 00197. All costs associated with the repairs will be totaled, and the Contractor will be reimbursed 75% of the total costs.
 2. If the damage occurs after Final Inspection and the RE requests the Contractor to repair the damage, the Contractor will complete the repair Work on a Force Account basis according to 00197. All costs associated with the repairs will be totaled and the Contractor will be reimbursed 100% of the total costs.

C. Contractor's Responsibility on Work for Which Agency Has Assumed Responsibility for Damage

If the Contractor needs to perform any additional Work on a portion of completed Work for which the Agency has already accepted responsibility, the Work must be performed under an approved stage construction Plan or approved Traffic Control Plan. If the Contractor performs any Work outside of the approved Plan, and the Work is damaged by Public Traffic, then the Contractor will become fully responsible and liable to make all repairs with no reimbursement by the Agency.

EXAMPLE: The Agency has assumed responsibility for a segment of Roadway (segment "A"). NB traffic is diverted onto segment "A" while the bridge is being replaced. After the bridge work is completed, the NB traffic is diverted onto the new bridge and segment "A" must be re-striped to accommodate the new traffic pattern. The Contractor has submitted both stage construction Plans and a Traffic Control Plan for this work, which the Agency has accepted.

When the striping work is performed, the Contractor does not set up the traffic control on segment "A" according to the approved Traffic Control Plan. While performing the striping work, an accident occurs and a portion of guardrail on segment "A" is damaged by Public Traffic.

Under this scenario, since the Contractor's traffic control was not performed according to the approved Traffic Control Plan, the Contractor is responsible for repairing the damage and bears all the costs to do so. The Agency's responsibility for damage on this segment of Roadway is basically voided due to the non-compliance with the Traffic Control Plan.

