

## Department of the Army, DoD

## § 536.22

(T.I.A.S.) 2846) and other similar agreements;

(5) FCCA (31 U.S.C. 3711-3720E) and FMCRCA (42 U.S.C. 2651-2653);

(6) Claims not cognizable under any other provision of law, 10 U.S.C. 2737; and

(7) Advance payments, 10 U.S.C. 2736.

(c) *Specified foreign countries.* Responsibility for the settlement of claims cognizable under the laws listed above has been assigned to military departments pursuant to DODD 5515.8, as supplemented by executive agreement and other competent directives.

(d) *When claims responsibility has not been assigned.* When necessary to implement contingency plans, the unified or specified commander with authority over the geographic area in question may, on an interim basis before receiving confirmation and approval from the General Counsel, DOD, assign single-service responsibility for processing claims in countries where such assignment has not already been made.

NOTE TO § 536.17: See also § 536.32 for information on transferring claims among armed services branches.

### § 536.18 Cross-servicing of claims.

(a) *Where claims responsibility has not been assigned.* Claims cognizable under the FCA or the MCA that are generated by another military department within a foreign country for which single-service claims responsibility has not been assigned, may be settled by the Army upon request of the military department concerned. Conversely, Army claims may in appropriate cases be referred to another military department for settlement, DODD 5515.8, E1.2 (posted on the USARCS Web site; for the address see § 536.2(a)). Tables listing claims offices worldwide are posted to the USARCS Web site at that address. U.S. Air Force claims offices may be identified by visiting the Web site at [http://afmove.hq.af.mil/page\\_afclaims.asp](http://afmove.hq.af.mil/page_afclaims.asp).

(b) *Claims generated by the Coast Guard.* Claims resulting from the activities of, or generated by, soldiers or civilian employees of the Coast Guard while it is operating as a service of the U.S. Department of Homeland Security may upon request be settled under this part by a foreign claims commission

appointed as authorized herein, but they will be paid from Coast Guard appropriations, 10 U.S.C. 2734.

(c) *SOFA claims within the United States.* Claims cognizable under the NATO PFP or Singaporean SOFAs arising out of the activities of aircraft within the United States may be investigated and adjudicated by the U.S. Air Force under a delegation from the Commander USARCS. Claims exceeding the delegated amount will be adjudicated by the USARCS.

(d) *Claims generated by the American Battle Monuments Commission.* Claims arising out of the activities of or in cemeteries outside the United States managed by the American Battle Monuments Commission (36 U.S.C. 2110) will be investigated and adjudicated by the U.S. Army.

NOTE TO § 536.18: See also § 536.32 for information on transferring claims among armed services branches.

### § 536.19 Disaster claims planning.

All ACOs will prepare a disaster claims plan and furnish a copy to USARCS. See DA Pam 27-162, paragraph 1-21 for specific requirements related to disaster claims planning.

### § 536.20 Claims assistance visits.

Members of USARCS and command claims services will make claims assistance visits to field offices on a periodic basis. See DA Pam 27-162, paragraph 1-22 for specific requirements related to claims assistance visits.

### § 536.21 Annual claims award.

The Commander USARCS will make an annual claims award to outstanding field offices. See DA Pam 27-162, para 1-23 for more information on annual claims awards.

## Subpart B—Investigation and Processing of Claims

### § 536.22 Claims investigative responsibility—General.

(a) *Scope.* This subpart addresses the investigation, processing, evaluation, and settlement of tort and tort-related claims for and against the United States. The provisions of this subpart do not apply to personnel claims (AR 27-20, chapter 11), or to claims under

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subpart G of this part, §§ 536.114 through 536.116.

(b) *Cooperation.* Claims investigation requires team effort between the U.S. Army Claims Service (USARCS), command claims services, and area claims offices (ACOs) including U.S. Army Corps of Engineers (COE) District Offices, claims processing offices (CPOs), and unit claims officers. Essential to this effort is the immediate investigation of claims incidents. Prompt investigation depends on the timely reporting of claims incidents as well as continuous communication between all commands or echelons bearing claims responsibility.

(c) *Notification to USARCS.* A CPO or an ACO receiving notice of a potentially compensable event (PCE) that requires investigation will immediately refer it to the appropriate claims office. The Commander USARCS will be notified of all major incidents involving serious injury or death or those in which property damage exceeds \$50,000. A command claims service may delegate to an ACO the responsibility for advising USARCS of serious incidents and complying with mirror file requirements. A copy of the written delegation and any changes made thereafter will be forwarded to the Commander USARCS.

(d) *Geographic concept of responsibility.* A command claims service or an ACO in whose geographic area a claims incident occurs is primarily responsible for initiating investigation and processing of any claim filed in the absence of a formal transfer of responsibility (see §§ 536.30 through 536.36). DOD and Army organizations whose personnel are involved in the incident will cooperate with and assist the ACO, regardless of where the former may be located.

NOTE TO § 536.22: See the parallel discussion at DA Pam 27-162, paragraph 2-1.

**§ 536.23 Identifying claims incidents both for and against the government.**

(a) Investigation is required when:

(1) There is property loss or damage.

(i) Property other than that belonging to the government is damaged, lost, or destroyed by an act or omission of a government employee or a member of North Atlantic Treaty Association

(NATO), Australian or Singaporean forces stationed or on temporary duty within the United States.

(ii) Property belonging to the government is damaged or lost by a tortious act or omission not covered by the report of survey system or by a carrier's bill of lading.

(2) There is personal injury or death.

(i) A civilian other than an employee of the U.S. government is injured or killed by an act or omission of a government employee or by a member of a NATO, Australian or Singaporean force stationed or on temporary duty within the United States. (This category includes patients injured during treatment by a health care provider).

(ii) Service members, active or retired, family members of either, or U.S. employees, are injured or killed by a third party and receive medical care at government expense.

(3) A claim is filed.

(4) A competent authority or another armed service or federal agency requires investigation.

(b) Determining who is a government employee is a matter of federal, not local, law. Categories of government employees usually accepted as tortfeasors under federal law are:

(1) Military personnel (soldiers of the Army, or members of other services where the Army exercises single-service jurisdiction on foreign soil; and soldiers or employees within the United States who are members of NATO or of other foreign military forces with whom the United States has a reciprocal claims agreement and whose sending States have certified that they were acting within the scope of their duty) who are serving on full-time active duty in a pay status, including soldiers:

(i) Assigned to units performing active or inactive duty.

(ii) Serving on active duty as Reserve Officer Training Corps (ROTC) instructors.

(iii) Serving as Army National Guard (ARNG) instructors or advisors.

(iv) On duty or training with other federal agencies, for example: the National Aeronautics and Space Administration, the Department of State, the Navy, the Air Force, or DOD (federal agencies other than the armed service