§ 536.72 Finality of settlement.

A claimant’s acceptance of an award, except for an advance payment or a split payment for property damage only, constitutes a release of the United States and its employees from all liability. Where applicable, a release should include the ARNG or the sending State. For further discussion see DA Pam 27–162, paragraph 2–82.

Subpart C—Claims Cognizable Under the Military Claims Act

§ 536.73 Statutory authority for the Military Claims Act.


§ 536.74 Scope for claims under the Military Claims Act.

(a) The guidance set forth in this subpart applies worldwide and prescribes the substantive bases and special procedural requirements for the settlement of claims against the United States for death or personal injury, or damage to, or loss or destruction of, property:

1. Caused by military personnel or civilian employees (enumerated in §536.23(b)) acting within the scope of their employment, except for non-federalized Army National Guard soldiers as explained in subpart F of this part; or
2. Incident to the noncombat activities of the armed services.

(b) Property. Property that may be the subject of claims for loss or damage under this subpart includes:

1. Real property used and occupied under lease (express, implied, or otherwise). See §536.34(m) and paragraph 2–15m of DA Pam 27–162;
2. Personal property bailed to the government under an agreement (express or implied), unless the owner has expressly assumed the risk of damage or loss;
3. Registered or insured mail in the DA’s possession, even though the loss was caused by a criminal act.

(c) Maritime claims. Claims that arise on the high seas or within the territorial waters of a foreign country are payable unless settled under subpart H of this part.

§ 536.76 Claims not payable under the Military Claims Act.

(a) Those resulting wholly from the claimant’s or agent’s negligent or wrongful act. (See §536.77(a)(1)(i) on contributory negligence.)