

Financial Liability Investigation + Appeals

The financial liability investigation of property loss, or "FLIPL" (formerly known as the "report of survey"), is the administrative tool used by the Army to establish liability. A financial liability investigation is used in situations where responsibility for the loss, damage, or destruction of US government property is in question, and/or where the amount to be charged is in dispute.

Call Legal Assistance IMMEDIATELY once you have been notified of a pending investigation against you. You have **limited time** to respond!

What about financial liability investigations involving government vehicle accidents?

AR 735-5 authorizes the waiver of financial liability for Government vehicle accidents caused by "simple negligence." The chain of command can use the investigation to document the loss and justify repairing the vehicle without actually having to take money from the soldier or civilian employee involved.

The waiver provision recognizes that accidents happen, and that personnel should not have to lose pay for simple fender benders.

Personnel should be sure to ask for the waiver in their rebuttal or request for reconsideration.

Could I be liable for lost, damaged, or destroyed property?

Yes, in some circumstances. Soldiers and Department of the Army civilian employees may have to pay for Army property they lose or damage. Under Army Regulation (AR) 735-5, financial liability ordinarily will not exceed one month's base pay. In certain cases, however, such as the loss of personal arms or equipment, or damage to Government housing, liability may equal the full amount of the loss.

Can I just sign a Statement of Charges, instead of receiving an Investigation?

Yes, in some circumstances. A financial liability investigation is not required in every situation where there is a loss or damage. If the loss to the government is less than one month's base pay, the command may ask the responsible individual to sign a DD Form 362, Statement of Charges / Cash Collection Voucher. This is essentially an admission of liability for the lost or damaged property, and an agreement to pay for it.

The command CANNOT force or coerce you to sign the statement, it must be COMPLETELY voluntary on your part.

I have just been named the subject of a financial liability investigation; What's going to happen now?

The financial liability process starts when the appointing authority, usually a Lieutenant Colonel or above (most often a battalion or squadron commander), appoints an investigating officer to investigate the facts surrounding the loss. The officer will be a commissioned or warrant officer, a noncommissioned officer with the rank of Sergeant First Class or above or a civilian employee GS-7 or above. The investigator must be senior in grade to the individual subject to potential liability unless war or military exigency requires otherwise. The survey

Financial Liability Investigations, cont.

What are my post-survey options if my request for reconsideration fails?

Once the approving and/or appeal authority renders a decision, the person to be held liable still has several options to avoid losing pay.

These options are not a part of the survey process but are afforded to soldiers and civilian employees under other Army Regulations.

These options include the right to request remission or cancellation of the debt (enlisted personnel only), to request a hearing (civilian personnel only), to request a payment plan with DFAS, or to petition the Army Board for the Correction of Military Records (ABCMR) to reverse the chain of command action.

officer investigates and makes initial findings as to what happened. A copy of those initial findings is then given to the individual subject to potential liability. That individual has 7 days to prepare and submit a rebuttal back to the survey officer. The person will have 15 days if the findings are mailed to him or her. Mailing may be appropriate if the survey officer and the individual are not assigned to the same installation (e.g., where the individual PCS'ed during the FLIPL process). The investigating officer will consider the rebuttal along with the findings, and make a recommendation about who should be held liable and in what amount. The recommendation is made to the appointing authority.

I submitted my rebuttal, now what?

The appointing authority reviews the financial liability packet, comments on the investigating officer's recommendation, and forwards it to the approving authority. The approving authority, approves or disapproves the investigating officer's recommendation. Before making his decision, the approving authority receives a legal opinion that the findings are legally sufficient and that the survey was completed in accordance with AR 735-5. To assess liability, the approving authority must find 1) the person to be held liable had a duty/responsibility to take care of the property; 2) the person failed to carry-out that duty (negligence); and 3) the person's failure led to the loss (proximate cause). The approving authority will notify the person to be charged that financial liability has been assessed. The notification will be in memorandum format and will inform the person they have the right to request reconsideration of (appeal) the approving authority's decision.

I have still been held liable after my rebuttal... what can I do now?

A person held liable has 30 days to request reconsideration of the approving authority decision to assess liability. The request goes back to the approving authority. If the approving authority decides to continue liability, he or she will forward the request to the appeal authority. The appeal authority will examine all of the facts and the recommendations again. **The decision of the appeal authority is final.**