

**U.S. Office of Personnel Management
Compensation Claim Decision
Under section 3702 of title 31 and section 5583 of title 5,
United States Code**

Claimant: [name]

Organization: Department of the Navy

Claim: Reissuance of uncurrent checks

Agency decision: N/A

OPM decision: Denied; time barred

OPM file number: 14-0003

/s/ Linda Kazinetz for

Robert D. Hendler
Classification and Pay Claims
Program Manager
Agency Compliance and Evaluation
Merit System Accountability and Compliance

2/11/14

Date

The claimant requests reissuance of three unnegotiated checks issued to him by the Department of the Navy in 2004 and 2005. We received the claim request on November 14, 2013. For the reasons discussed herein, the claim is time barred.

The record shows the claimant requested "waiver of the Barring Act statute of limitations to allow reissuance of the three checks" by letter to the Assistant Secretary of the Navy (Financial Management and Comptroller) dated January 14, 2013, "per the request of DFAS [Defense Finance and Accounting Service] Cleveland." He was subsequently notified by letter dated February 7, 2013, that "[t]he Assistant Secretary of the Navy (Financial Management and Comptroller) does not possess the delegated authority to consider Barring Act waiver of statute of limitation claims for civilian pay compensation." The three checks in question are: Check No. 8522-04024714 in the amount of \$1581.64, issued January 2, 2004; Check No. 8522-04047672 in the amount of \$1610.86, issued March 12, 2004; and Check No. 8522-04154671 in the amount of \$359.46, issued April 8, 2005.

The Barring Act, at 31 U.S.C. 3702(b), specifies claims against the United States must be presented to the appropriate official or agency within six years after the claim accrues. *Matter of Robert O. Schultz*, B-261461 (November 27, 1995). The Barring Act does not merely establish administrative guidelines; it specifically prescribes the time within which a claim must be received in order for it to be considered on its merits. *Matter of Nguyen Thi Hao*, B-253096, (August 11, 1995). The underlying obligation liquidated by a Treasury check is subject to the 6-year limitation imposed by the Barring Act. See *Payment of Unpaid Treasury Checks More Than 6 Years Old*, B-244431 and B-244431.2 (Sept. 13, 1994); OPM Case Number S9601661; OPM File Number 06-0035, September 29, 2006; OPM File Number 09-0028, April 22, 2009. Unless an individual submits a claim to the appropriate agency before the 6-year period elapses, the claim on the obligation is barred. Therefore, any entitlement to reissuance of any of these checks expired on April 8, 2011, due to the running of the 6-year statute of limitations, and the claimant would have been required to file the claim before that date.

The claimant did not provide documentation establishing the date on which he submitted to DFAS his request for reissuance of the unpaid checks. However, since he stated in his claim request to OPM that "it was not until 2012 that I finally located the checks," we may conclude the claim is time barred. OPM does not have any authority to disregard the provisions of the Barring Act, make exceptions to its provisions, or waive the time limitation that it imposes. See *Matter of Nguyen Thi Hao*, *supra*; *Matter of Jackie A. Murphy*, B-251301 (April 23, 1993); *Matter of Alfred L. Lillie*, B-209955, May 31, 1983. The burden of proof is on the claimant to prove the timeliness of the claim, the liability of the Government, and his or her right to payment. 5 CFR 178.105; *Matter of Jones and Short*, B-205282, June 15, 1982. Based on the information before us, this claim is time barred and must be denied.

This settlement is final. No further administrative review is available within OPM. Nothing in this settlement limits the employee's right to bring an action in an appropriate United States court.