



United States  
General Accounting Office  
Washington, D.C. 20548

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Office of the General Counsel

B-231927.4

August 20, 1992

The Honorable Patsy T. Mink  
House of Representatives

Dear Ms. Mink:

This is in response to your letter of July 10, 1992, on behalf of your constituent Mr. . In , B-231927.3, Apr. 13, 1990, we determined, upon reconsideration, that Mr. Fujikawa was entitled to additional compensation since his employing agency, Pearl Harbor Naval Shipyard, Hawaii, set his rate of basic pay under the provisions of 10 U.S.C. § 1586 (1982), at less than that to which he was entitled to when he returned from an overseas assignment in 1974.

We also held that the portion of Mr. 's claim which accrued prior to December 29, 1981, is barred by the statutory 6-year time limitation in 31 U.S.C. § 3702(b)(1) (1982). Mr. 's claim was received in this Office on December 29, 1987, and under 31 U.S.C. § 3702(b)(1), a claim against the United States must be received by the Comptroller General within 6 years after the claim accrues.

Mr. believes that the substantive law in 10 U.S.C. § 1586(d), on which we based our decision that he was entitled to backpay, supersedes the statute of limitations on his claim. Thus, you have requested an explanation from us as to why the statute of limitations takes precedence over the law that guarantees the pay rate for employees returning from overseas. Mr. also states that he questioned the reduction in his pay in a memorandum dated June 24, 1976, to the Industrial Relations Office and that, despite repeated requests for clarification, he never received a response. Accordingly, you ask why Mr. should be penalized for the government's error.

Section 3702(b)(1) establishes a condition precedent to the right to have the claim considered by the General Accounting Office. British, Dutch and Italian Claims for Fuel and Services, 67 Comp. Gen. 52 (1987); Federal Firefighters - Overtime Pay, 69 Comp. Gen. 455 (1990). This Office is precluded from taking jurisdiction of a claim that accrued more than 6 years prior to its receipt in this Office even

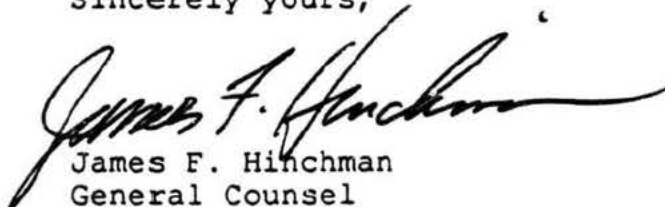
though the employee may have had a substantive right to payment under a separate specific statutory authority. See e.g., B-233352, June 11, 1990 (claim for travel expenses under the provisions of 5 U.S.C. § 5728(a)); B-235887, Aug. 30, 1990 (claim for a lump-sum annual leave payment under the provisions of 5 U.S.C. § 5551(a)). Further, we are without authority to waive or modify the application of 31 U.S.C. § 3702(b)(1). Therefore, the fact that Mr. [redacted]'s claim was filed previously with his employing agency would not have any effect on our jurisdiction to consider his claim.

, 67 Comp. Gen. 467 (1988);  
, B-222948, Jan. 9, 1987.

The statute of limitations provision in 31 U.S.C. § 3702(b) parallels the 6-year limitation applicable to the federal courts which precludes the courts from taking jurisdiction over a claim unless it is filed within 6 years after the claim first accrues. Demo v. United States, 3 Cl. Ct. 349 (1983); 28 U.S.C. § 2501 (1988). The courts have held that the public interest is served by the statute of limitations since it protects the government from having to defend suits long after events sued upon have occurred, and it puts an end to the possibility of litigation after a reasonable time. Hart v. United States, 910 F.2d 815 (Fed. Cir. 1990).

I regret that our response could not be more favorable. If we can be of further assistance to you, please do not hesitate to call on us.

Sincerely yours,



James F. Hinchman  
General Counsel

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DIGEST

Congresswoman is advised that substantive law in 10 U.S.C. § 1586(d), upon which authority we held that employee was entitled to backpay in , B-231927.3, Apr. 13, 1990, does not supersede statute of limitations provision in 31 U.S.C. § 3702(b)(1). Section 3702(b)(1) is not a mere statute of limitations but rather is a condition precedent to the right to have the claim considered by the General Accounting Office. The federal courts follow the same rule. We are without authority to waive or modify the application of this statute.