

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

**Claimant:** [name]

**Organization:** Port of Entry  
Customs and Border Protection  
U.S. Department of Homeland  
Security  
[city & State]

**Claim:** Overtime earnings cap waiver

**Agency decision:** N/A

**OPM decision:** Denied; lack of jurisdiction

**OPM decision number:** 12-0003

//Judith A. Davis for

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Robert D. Hendler  
Classification and Pay Claims  
Program Manager  
Merit System Audit and Compliance

4/2/2012

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Date

The claimant, who is employed by the Customs and Border Protection, U.S. Department of Homeland Security (DHS), as a Supervisory Customs and Border Protection Officer, GS-1895-13, seeks a “cap waiver” so that he may continue to work overtime and receive overtime pay above the \$35,000 fiscal year overtime pay cap. The U.S. Office of Personnel Management (OPM) received the claim on October 7, 2011, and the claimant’s request to dismiss his claim on November 15, 2011, which we granted that same day. On February 2, 2012, OPM received the claimant’s request to reopen his claim. For the reasons discussed herein, the claim is denied for lack of subject-matter jurisdiction.

OPM has authority to adjudicate compensation and leave claims for Federal employees under the provisions of section 3702(a)(2) of title 31, United States Code (U.S.C.). OPM’s adjudication authority is an administrative remedy, not a judicial remedy. *See* 5 Code of Federal Regulations (CFR) part 178. Section 178.102(a) of title 5, CFR, indicates that the claimant’s employing agency must review and issue a written decision on a claim before it is submitted to OPM for adjudication. The claimant is responsible for preserving the claim period, by proving the signed, written claim was filed within the applicable statute of limitations. *See* 5 CFR 178.104. The information provided by the claimant with his request does not show he has filed a signed, written claim with a DHS component authorized to issue an agency-level decision or that he has received such a decision. Nevertheless, we may render a decision based on lack of subject-matter jurisdiction.

The record indicates the claimant receives overtime compensation under the provisions of the Customs Officer Pay Reform Act (COPRA), codified at 19 U.S.C. § 267. He seeks to have OPM direct his agency to waive the COPRA \$35,000 annual overtime pay cap. OPM’s authority under 31 U.S.C. § 3702 (a)(2) is narrow and limited to adjudication of compensation and leave claims. The authority to waive the COPRA overtime pay cap is statutorily vested in the agency as provided for in 19 U.S.C. § 267(c)(1) and is not subject to review by OPM. *See* also 19 CFR 24.16(h). Accordingly, OPM lacks subject-matter jurisdiction to act on the claimant’s request. Therefore, the claim is denied.

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