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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-115234

February 24, 1981

The Honorable William H. Webster
Director, Federal Bureau of Investigation
United States Department of Justice

Dear Mr. Webster:

[FBI Payment of Claims]

This is in response to a letter from your Assistant Director - Legal Counsel to our Claims Group concerning the payment of claims under 31 U.S.C. § 224b. Briefly, you propose to pay these claims from current operating appropriations without regard to amount. While, in the circumstances outlined below, we will not question the use of current appropriations, it seems clear that there is no authority to make payments in excess of \$500 in any one case.

In pertinent part, 31 U.S.C. § 224b provides as follows:

"The Attorney General of the United States may consider, adjust, and determine any claim accruing after January 1, 1934, on account of damages to any person or damages to or loss of privately owned property, caused by the Director, any Assistant Director, inspector, or special agent of the Federal Bureau of Investigation of the Department of Justice acting within the scope of his employment, and such amount as may be found due to any claimant, not exceeding \$500 in any one case, shall be certified to Congress as a legal claim for payment out of appropriations that may be made by Congress therefor, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed: * * * And provided further, That acceptance by any claimant of the amount determined to be due him under the provisions of this section shall be deemed to be in full and final settlement of such claim against the Government of the United States." (Emphasis added.)

Last year, the Attorney General delegated settlement authority under this provision to the Director, Federal Bureau of Investigation, who in turn delegated it to the Bureau's Legal Counsel.



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In 1978, the permanent judgment appropriation, 31 U.S.C. § 724a, was expanded to include certain types of claims which agencies were authorized to settle but which required specific congressional appropriations for payment, for example, 10 U.S.C. §§ 2733 and 2734 (Pub. L. No. 95-240). However, it was subsequently discovered that a number of similar statutes, such as 31 U.S.C. § 224b, were not included. In informal discussions last year, we advised your staff that we were working with the appropriations committees to prepare a further amendment to 31 U.S.C. § 724a to pick up the remaining statutes, including 31 U.S.C. § 224b, which were not covered by the 1978 amendment. Should the Congress take this action, awards under 31 U.S.C. § 224b could be paid promptly upon certification by the General Accounting Office, without the need for specific congressional appropriations. However, the amendment to 31 U.S.C. § 724a would in no way alter or increase an agency's substantive claims settlement authority. It would merely provide a mechanism for prompt payment. Authority under 31 U.S.C. § 224b would still be limited to \$500 in any one case.

After the informal discussions mentioned above, the Bureau apparently sought the consent of the appropriations committees to pay "224b claims" out of current operating appropriations until such time as 31 U.S.C. § 724a is amended. The Senate Appropriations Committee expressed its approval in its report on the Bureau's 1981 appropriation, S. Rep. No. 96-949, 96th Cong., 2d Sess. 24-25 (1980).

As a general proposition, the use of operating appropriations in the face of a statute such as 31 U.S.C. § 224b which provides a specific payment mechanism would be legally questionable. In this context, the decision cited in your letter (B-139703, May 28, 1980) has no application. However, in view of (a) the Bureau's apparent practice of paying "224b claims" from operating appropriations in the past, (b) the Senate Appropriations Committee's concurrence in this procedure, and (c) the strong possibility of a further amendment to 31 U.S.C. § 724a which would obviate the need for specific appropriations, we see no need to object to the payment of these claims from current appropriations for salaries and expenses, provided the Senate and House Appropriations Committees are properly notified as set forth in S. Rep. No. 96-949, supra.

However, the last sentence of your letter to our Claims Group states that the Bureau will pay these claims "without regard to amount." 31 U.S.C. § 224b is expressly limited to payments "not

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exceeding \$500 in any one case." As noted, the amendment to 31 U.S.C. § 724a would not affect this ceiling. Therefore, we must advise that there is no authority to pay "224b claims" in amounts greater than \$500 in any one case.

Sincerely yours,

Harry R. Van Cleve

Milton J. Socolar
General Counsel