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B-217209, Dec 11, 1984, Office of General Counsel

Number: B-217209

Date: 1984-12-11

B-217209, DEC 11, 1984, OFFICE OF GENERAL COUNSEL

ACCOUNTABLE OFFICERS - RELIEF - ADMINISTRATIVE RECOMMENDATION - ABSENT DIGEST: NOTWITHSTANDING AGENCY'S SUBMISSION EVIDENCING THAT A BURGLARY TOOK PLACE, GAO CANNOT GRANT RELIEF FOR LOSS OF AGENCY FUNDS IN ABSENCE OF RELIEF REQUEST FROM APPROPRIATE AGENCY OFFICIAL WHICH IDENTIFIES THE ACCOUNTABLE OFFICER AND MAKES THE FINDINGS REQUIRED BY 31 U.S.C. SEC. 3527(A).

MR. EDWARD D. WRIGHT ASSISTANT DISBURSING OFFICER THE AMERICAN BATTLE MONUMENTS COMMISSION 68, RUE DU 19 JANVIER 92380 GARCHES, FRANCE

DEAR MR. WRIGHT:

THIS IS IN RESPONSE TO YOUR LETTER OF NOVEMBER 16, 1984, REQUESTING RELIEF "TO ADMINISTRATIVELY CLEAR A LOSS OF FUNDS" DUE TO A BURGLARY. WILL BE EXPLAINED BELOW, WE CANNOT CONSIDER YOUR REQUEST AT THE PRESENT TIME.

ACCORDING TO YOUR SUBMISSION, THERE IS EVIDENCE THAT A BURGLARY TOOK PLACE AT THE LORRAINE AMERICAN CEMETERY SOMETIME BETWEEN THE CLOSING OF THE OFFICE ON NOVEMBER 2, 1984, AND THE OPENING OF THE OFFICE ON NOVEMBER 3, 1984. THE EVIDENCE TENDS TO ESTABLISH THAT THE OFFICE WAS ENTERED THROUGH A WINDOW AND THE SAFE PRIED OPEN. AN EXAMINATION OF THE OFFICE INDICATED THAT THE PETTY CASH BOX WAS MISSING AND THE PAYROLL MONEY POUCH HAD BEEN EMPTIED RESULTING IN A TOTAL LOSS OF $915.59.

UNDER 31 U.S.C. SEC. 3527(A), WE HAVE AUTHORITY TO GRANT RELIEF TO ACCOUNTABLE OFFICERS FOR THE PHYSICAL LOSS OF FUNDS UPON OUR CONCURRENCE WITH THE AGENCY HEAD OR HIS DELEGATE THAT THE LOSS OCCURRED WHILE THE OFFICER WAS ACTING IN THE DISCHARGE OF HIS OFFICIAL DUTIES AND THAT THE LOSS OCCURRED WITHOUT ANY FAULT OR NEGLIGENCE ON THE PART OF THE EMPLOYEE.

YOU HAVE NOT MADE THE REQUISITE FINDINGS. INDEED YOU HAVE NOT EVEN IDENTIFIED THE ACCOUNTABLE OFFICER WHO IS RESPONSIBLE FOR THE LOSS. FURTHERMORE, WE CANNOT DETERMINE FROM THE SUBMISSION WHETHER YOU ARE AUTHORIZED BY THE HEAD OF YOUR AGENCY TO SUBMIT A REQUEST FOR RELIEF.

WE ARE RETURNING YOUR SUBMISSION FOR APPROPRIATE ACTION. IF YOU OR ANOTHER OFFICIAL DO RESUBMIT IT IN CONFORMITY WITH THE ABOVE, WE WILL CONSIDER THE MATTER. IN THIS REGARD, WE GENERALLY CONCUR WITH AN AGENCY'S RECOMMENDATION TO GRANT RELIEF IF THERE IS EVIDENCE ESTABLISHING THAT A BURGLARY TOOK PLACE AND AN INVESTIGATION REVEALS THAT THE LOSS CANNOT BE ATTRIBUTED IN ANY WAY TO FAULT OR NEGLIGENCE ON THE PART OF THE ACCOUNTABLE OFFICER. SEE, E.G., B-201651, FEBRUARY 9, 1981.