

DECISION



Morrow 11844D
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20546**

FILE: B-205901

DATE: May 19, 1982

MATTER OF: Family Lines Rail System - Return of Funds

DIGEST: Where a railroad furnishes diesel fuel to the Federal Bureau of Investigation to assist an undercover investigation, with the understanding that the fuel or proceeds from its sale will be returned, proceeds from sale of the fuel are not received for use of United States under 31 U.S.C. § 484 (1976), and thus may be returned to the railroad.

The U.S. Department of Justice, Federal Bureau of Investigation (Bureau), in a letter dated December 18, 1981, requests our opinion concerning the return of \$3,790 to the Family Lines Rail System, the successor in interest to the Louisville and Nashville Railroad (L&N), Louisville, Kentucky. For the reasons indicated below, we conclude that the money need not be deposited in the Treasury and therefore may be returned to the railroad.

According to the Bureau's submission, in May 1978 the New Orleans office of the Bureau initiated an undercover operation to investigate thefts of diesel fuel from the L&N. In cooperation with this investigation, L&N furnished 15,000 gallons of diesel fuel to the New Orleans office to assist the undercover operation. The Bureau and L&N agreed that after the investigation was completed, L&N would receive either the unused diesel fuel or the money generated from its sale. Thereafter, the New Orleans office sold the diesel fuel to establish the bona fides of the undercover operation. Proceeds from the sale of the fuel amounted to \$3,790. The Bureau deposited these proceeds in a safe deposit box for the storage of valuable exhibits and evidence. Presently, the Bureau has no further need for the funds as evidence.

The Bureau, in its submission, raised the following issues:

"1. Did the funds in question assume the nature of receipts payable to the United States Treasury pursuant to Title 31, United States Code, Section 484?

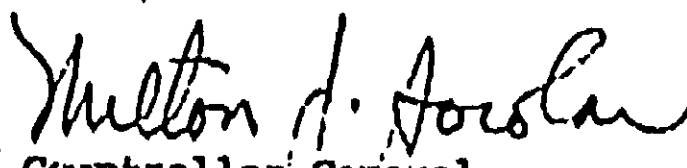
"2. If * * * these funds are not receipts of the United States within the meaning of the statute, may this Bureau return the funds to Family Lines Rail System?"

Section 484 of Title 31 of the United States Code, to which the Bureau refers, provides that the gross amount of all moneys received

from whatever source for the use of the United States shall be paid into the Treasury, at as early a date as practicable. By its terms, section 484 applies only to moneys which are received for the use of the United States. 60 Comp. Gen. 15, 26 (1980); 33 Op. Att'y Gen. 316, 321 (1922). The mere fact that moneys are received by a Federal agency in the exercise of its lawful functions does not necessarily mean that those moneys are received for the use of the United States. See Varney v. Warehime, 147 F.2d 238, 245 (6th Cir. 1945). Funds are received for the use of the United States only if they are to be used to bear the expenses of the Government or to pay the obligations of the United States. See 33 Op. Att'y Gen. 316, 321 (1922).

In this case it is clear that the money which the Bureau received from the sale of the diesel fuel was not received for the use of the United States. Under its agreement with the railroad, the Bureau was to return to the railroad either the fuel or the proceeds from its sale at the completion of the investigation. The Bureau was to use the fuel, or the money, only for the purposes of the investigation or any resulting prosecution.

Accordingly, we conclude that the funds are not within the ambit of section 484 and may be returned to Family Lines Rail System.

for 
Comptroller General
of the United States