

**DECISION**

*J. Ruppert*  
THE COMPTROLLER GENERAL *GSM*  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

7810

FILE: B-191761

DATE: September 22, 1978

MATTER OF: Department of Agriculture - Uniform Allowance  
for Meat Grader Employees

**DIGEST:** Food Safety and Quality Service (FSQS), Department of Agriculture, which, FSQS advises us, operates on a user fee trust fund may authorize meat grader employees a uniform allowance under 5 U.S.C. § 5901, provided the following four basic conditions are satisfied: (1) a specific appropriation for uniforms; (2) a determination by appropriate official that a certain employee group is required to wear uniforms; (3) a determination that either Government is to furnish uniforms or pay an allowance; and (4) promulgation of specific agency regulations covering the wearing of uniforms. Specific appropriation requirement is satisfied by uniform authorization provision in Agriculture Department's annual appropriation act and thus user fees, which are appropriated funds, may be expended for this purpose.

This action is in response to a request of April 21, 1978, from Mr. Robert Angelotti, Ph. D., Administrator, Food Safety and Quality Service (FSQS), Department of Agriculture, for a ruling by this Office concerning its authority to establish a uniform allowance for its meat graders.

The FSQS has been charged with the responsibility for providing meat grading services to the meat industry required by the Agricultural Marketing Act of 1946, as amended, 7 U.S.C. §§ 1631 et seq. FSQS desires to promulgate regulations that would require FSQS meat grader employees to wear a clean, white, well maintained frock as an outer garment whenever they perform official meat grading or acceptance duties which routinely involve the handling of meat and meat product. These frocks are to be the traditional type presently worn by industry employees who handle meat.

FSQS desires to authorize the payment of a uniform allowance to meat grader employees pursuant to 5 U.S.C. § 5901 in lieu of providing them with Government furnished uniforms; however, it is uncertain of its authority to authorize such allowance because of the unusual manner by which the FSQS is funded. FSQS advises us that pursuant to 7 U.S.C. § 1622(h), it obtains its operating

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funds from a trust fund account in the Treasury which is sustained by user fees it collects from firms that utilize its meat grading services. We have often held that an authorized trust fund financed from user fees or other sources constitutes what could be considered a kind of permanent appropriation. See B-141960, June 2, 1960 and B-171277, April 2, 1971.

FSQS believes this funding procedure may cause a problem in view of our holding in 35 Comp. Gen. 306, 308 (1955) that a specific appropriation is necessary and a prerequisite to the furnishing of uniforms or the granting of uniform allowances under 5 U. S. C. § 5901. FSQS points out that because it obtains its operating expenses from the user fee trust fund account, there is no opportunity for Congress to provide specific annual appropriations for meat grader employees' uniform allowances. For this reason, FSQS request our views on whether it may legally authorize uniform allowances for meat grader employees.

As noted above, monies in authorized trust funds are appropriated funds and are therefore subject to the statutory controls and restrictions applicable to the user of appropriated funds. 35 Comp. Gen. 615 (1956).

The authorization of employee uniform allowances is governed by the statutory provisions contained in the Federal Employees Uniform Allowance Act of 1954, as amended, 5 U. S. C. §§ 5901-5903, implementing regulations contained in Bureau of the Budget (now Office of Management and Budget) Circular No. A-30, Revised August 20, 1966, and decisions of this Office regarding employee uniform allowances such as 35 Comp. Gen. 306, supra. These laws and regulations establish four basic conditions that must be satisfied before a uniform allowance may be authorized. First a specific provision in the authorizing or appropriation acts is necessary and prerequisite to the furnishing of uniforms or the granting of uniform allowances under 5 U. S. C. §§ 5901-5903. See 35 Comp. Gen. 306, 308, supra. Second, the agency or department head or some official designated by him must make a determination that it is in the best interest of the Government that a group of employees be required to wear a specified uniform. Letter of National Council of Meat Graders, AFGE - Legality of Bargaining Proposals, B-190202, March 28, 1978. Third, the agency or department head or some official designated by him must determine whether it is in the best interest of the Government to furnish uniforms to the employees or to pay a uniform allowance pursuant to paragraph 4b, Circular A-30, supra. Fourth, the agency should promulgate regulations that describe the uniform, specify when and how it is to be worn and identify employees covered by the requirement.

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With a view toward these requirements, we have reviewed the provisions of the Agriculture and related agencies appropriations act, fiscal year 1978, Pub. L. No. 95-97, approved August 12, 1977, 91 Stat. 810. Section 602 of this Act, in the "General Provisions" title, states that "Funds available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. §§ 5901-5903)." Accordingly, the requirement that there be specific statutory authority for uniforms is satisfied. So long as that provision is included in annual appropriation acts for the Department of Agriculture, appropriated funds may be expended for uniform allowances.

Pursuant to the second condition set forth above, the Administrator, FSQS, acting on authority of the Department head, must determine that it is in the best interest of the Government for meat grader employees to wear white frocks while performing their duties. We understand that he has already made such determination on the following rationale. The mandatory use of clean, white frocks is designed to assure sanitary contact with meat destined for human consumption. To promote sanitation, it is necessary for Federal meat grader employees to change their outer garments often inasmuch as such garments rapidly become stained with ink, fat and blood while meat graders are engaged in the performance of their duties. Also graders are continually in association with members of the meat industry and at times meet the general public. Thus, it is necessary for graders to wear clean, white frocks to maintain public confidence in Federal employees who handle meat products.

With regard to the third condition set out above, the Administrator, FSQS, has already determined that a uniform allowance is by far the most economical and practical approach when compared to the alternative of Government furnished uniforms. He points out that as a result of the widely scattered and often isolated locations of the meat processing plants serviced by grader personnel, it would be very expensive to establish a distribution system to provide employees with uniforms. Hence, the uniform allowance alternative is determined to be in the best interest of the Government.

Finally, the Administrator, FSQS, plans to promulgate regulations in accordance with condition four, above. Such regulations would be promulgated as a new section 7 CFR 285.51, to Department of Agriculture regulations.

In view of the foregoing, we are of the opinion that the Administrator, FSQS, may legally authorize meat grader employees a uniform allowance under 5 U.S.C. §§ 5901-5903, as he has proposed.

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Acting Comptroller General  
of the United States