

Rogers

14949

GGM

**DECISION**



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

**FILE:** B-199492

**DATE:** September 18, 1980

**MATTER OF:** Robes for Administrative Law Judges of the Occupational Safety and Health Review Commission

**DIGEST:** Administrative Law Judges of the Occupational Safety and Health Review Commission may be furnished robes or provided a uniform allowance therefor under 5 U.S.C. § 5901 if the head of the agency determines that they are required to wear them and assuming, as is now the case, that the Commission's funds are available for uniforms.

*Use of* The Director, Office of Financial Management, Occupational Safety and Health Review Commission (Commission) has asked whether appropriated funds ~~may be used~~ to buy robes for Administrative Law Judges (ALJ's) to wear in the performance of their duties. *AG 100649*

The authorization of employee uniform allowances is governed by the Federal Employees Uniform Allowance Act of 1954, as amended, 5 U.S.C. § 5901-5903, by implementing regulations contained in Bureau of the Budget (now Office of Management and Budget (OMB)) Circular No. A-30, revised August 20, 1966,\*/ and by decisions of this Office regarding employee uniform allowances, such as 35 Comp. Gen. 306 (1955). These laws, regulations, and decisions establish two conditions that must be satisfied before uniforms may be furnished or uniform allowances paid. There must be an appropriation which is specifically made available for uniforms or uniform allowances (35 Comp. Gen. 306 (1955)), and (unless there is a statutory requirement) the agency or department head (or some official designated by him) must make a determination that employees are required to wear a uniform. 57 Comp. Gen. 379 (1978).

The first condition is satisfied by the following provision of the current Commission appropriation:

\*/ Authority to prescribe regulations under the Act has been delegated to what is now the Office of Personnel Management (Exec. Ord. No. 11609, section 8(2), 36 Fed. Reg. 13747 (1971)) but pending action by that Office, the OMB Circular has remained in effect.

~~012087~~  
113353

B-199492

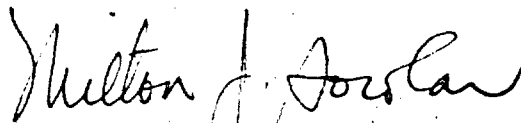
"Appropriations contained in this Act, available for salaries and expenses shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902)." H.R. 4389, 96th Cong., 1st Sess. § 402 (1979), incorporated by reference in Pub. L. No. 96-123, § 101(g), 93 Stat. 923 (1979).

So long as that provision is included in annual appropriation acts for the Commission, its funds may be expended for uniforms or uniform allowances.

The request does not state whether the head of the Commission has determined that its ALJ's are required to wear robes. This is a prerequisite to the furnishing of uniforms or the granting of uniform allowances. In this regard, OMB Circular A-30 provides for the furnishing of uniforms "to any employee who is required by regulations or by law to wear a prescribed uniform while on official duty." In considering whether to require the Commission's ALJ's to wear robes, the head of the Commission may wish to bear in mind that although federal judges wear robes which they provide from their own funds, the wearing of robes is merely customary and is not required by statute or regulation.

If the agency head does make the above determination, then he must also decide whether the Government's interest is better served by furnishing robes or by providing a uniform allowance. OMB Circular A-30, section 4b. Finally, uniforms purchased by the Government remain the property of the Government after they have been issued and are to be turned in by employees who no longer require them for official duty. Id., section 5c.

In summary, if the head of the Commission determines that it is required for the agency's ALJ's to wear robes, then the Commission's funds may be expended for this purpose.



For the Comptroller General  
of the United States