



Office of the General Counsel

B-230820

April 25, 1988

Mr. Anthony Stapon  
P.O. Box 964  
Patchogue, New York 11772

Dear Mr. Stapon:

This responds to your inquiry concerning whether the Internal Revenue Service (IRS) may use appropriated funds to purchase foul weather clothing for you to wear in the performance of official duties during inclement weather. You indicate that your request to the IRS for such clothing was refused. As explained below, we agree with IRS that appropriated funds are not available for this purpose.

In 5 U.S.C. § 7903 (1982), the Congress has provided a standard specifically applicable to expenditures for protective clothing and equipment, as follows:

"Appropriations available for the procurement of supplies and material or equipment are available for the purchase and maintenance of special clothing and equipment for the protection of personnel in the performance of their assigned tasks. . . ."

This Office has construed 5 U.S.C. § 7903 in numerous decisions concerning the propriety of furnishing special clothing and equipment to civilian employees. In order for an item to be authorized by 5 U.S.C. § 7903, three tests must be met: (1) the item must be "special" and not part of the ordinary and useful furnishings an employee may reasonably be expected to provide for himself; (2) the item must be for the benefit of the government, that is, essential to the safe and successful accomplishment of the work, and not solely for the protection of the employee; and (3) the employee must be engaged in hazardous duty. 63 Comp. Gen. 245, 247 (1984). See also, B-193104, Jan. 9, 1979; 32 Comp. Gen. 229 (1952).

We have generally been unwilling to hold that the purchase of foul weather gear meets these standards, instead holding that such gear must be viewed as personal to the employees and relates only incidentally to their employment with the government. B-193104, above; B-122484, Feb. 15, 1955 (copies enclosed).

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The only time that we applied these standards to allow expenditures for foul weather gear involved the provision of parkas to employees temporarily assigned to areas with severe winter conditions from permanent duty stations where they would not have been expected to own their own heavy winter clothing. 63 Comp. Gen., at 247. We have no reason to believe that such unique circumstances exist in this case.

Therefore, we must conclude that your proposal that the government use appropriated funds for the purchase of foul weather gear to be used in your duties for the IRS is not authorized by 5 U.S.C. § 7903. In addition, we are unaware of any other specific statutory authority which would permit the purchase in question.

Sincerely yours,



Robert H. Hunter  
Assistant General Counsel

(Enclosures)